

F  
255  
H712

A

A

0

0

0

1

9

1

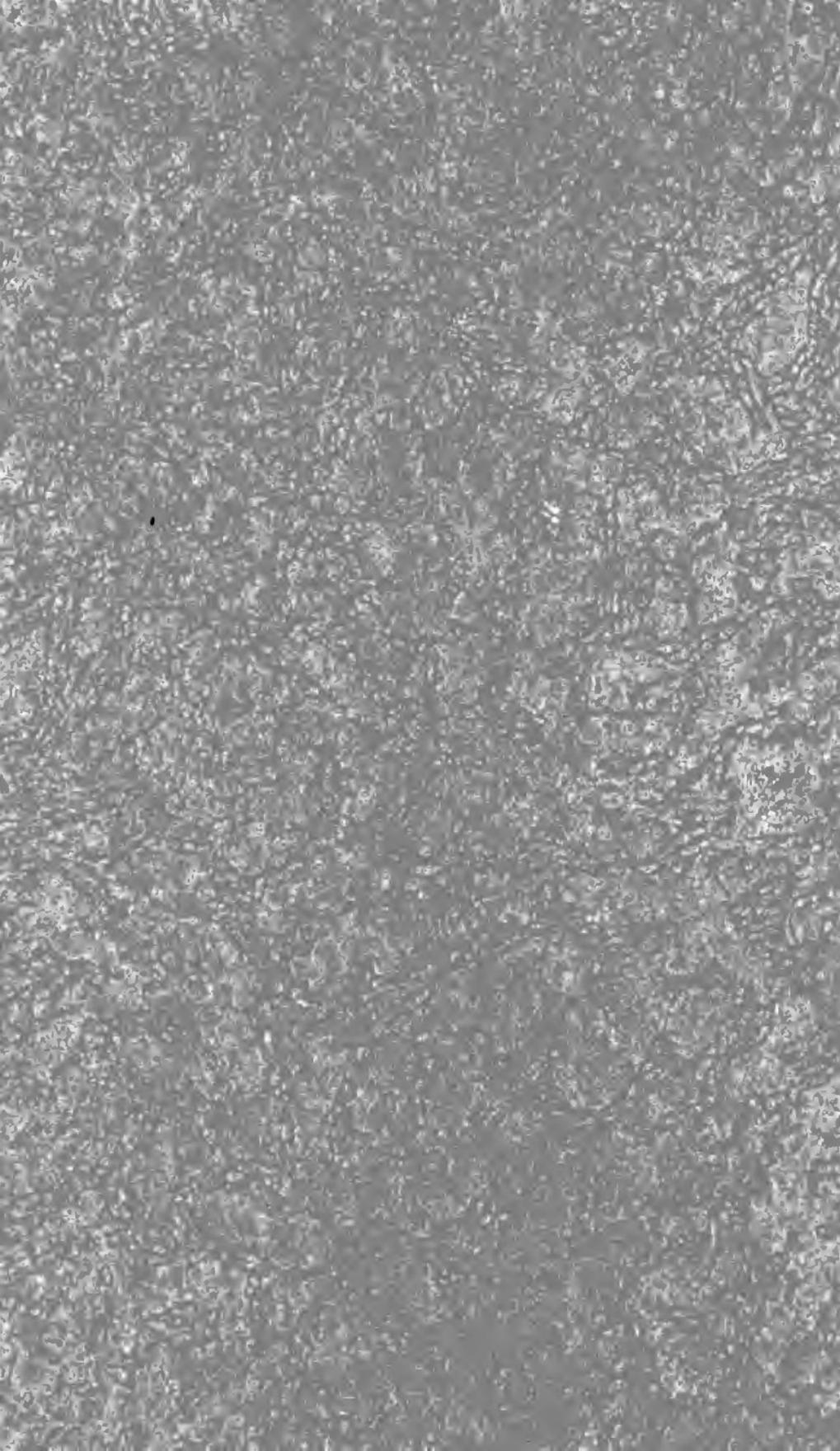
2

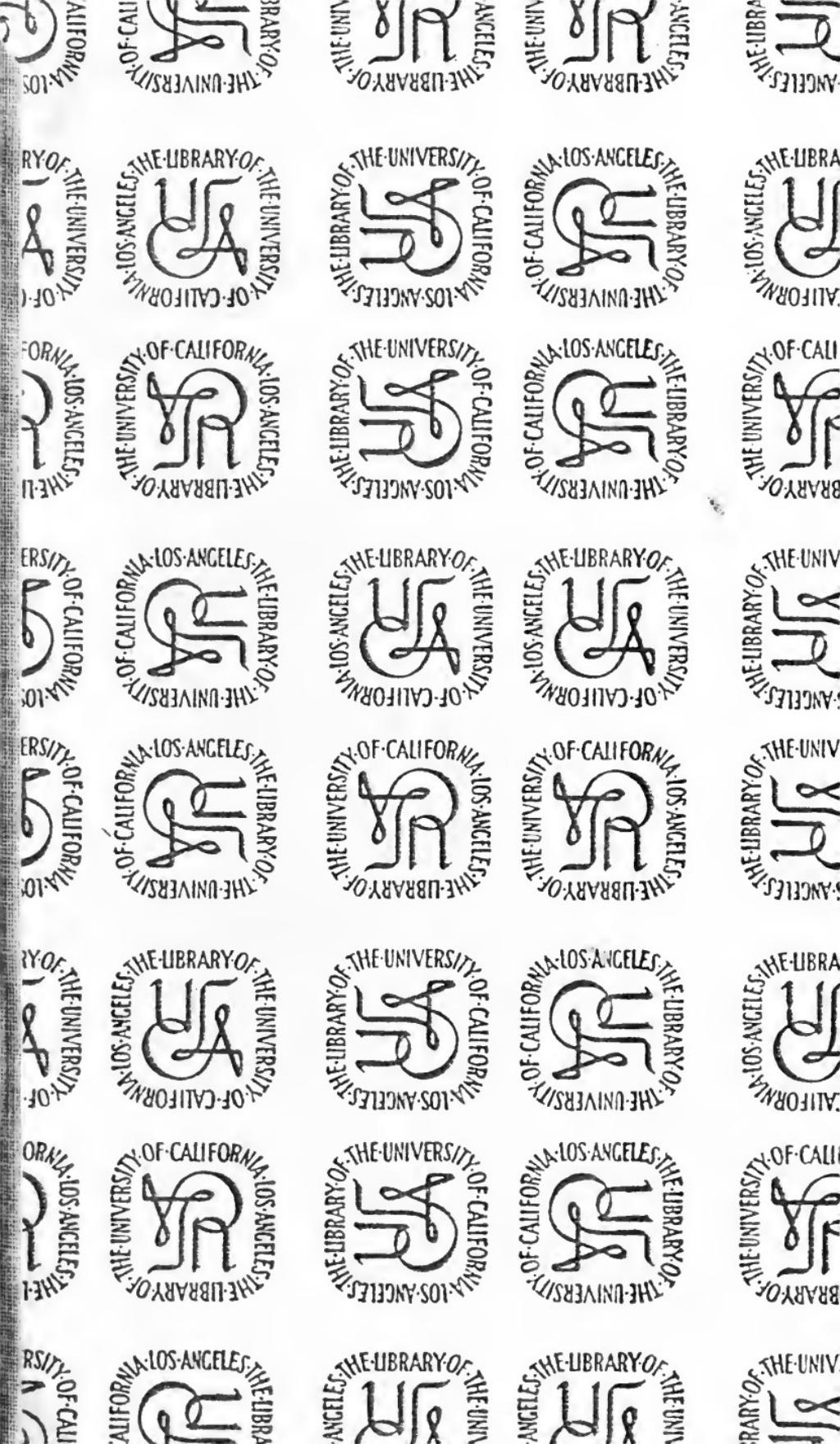
3

9

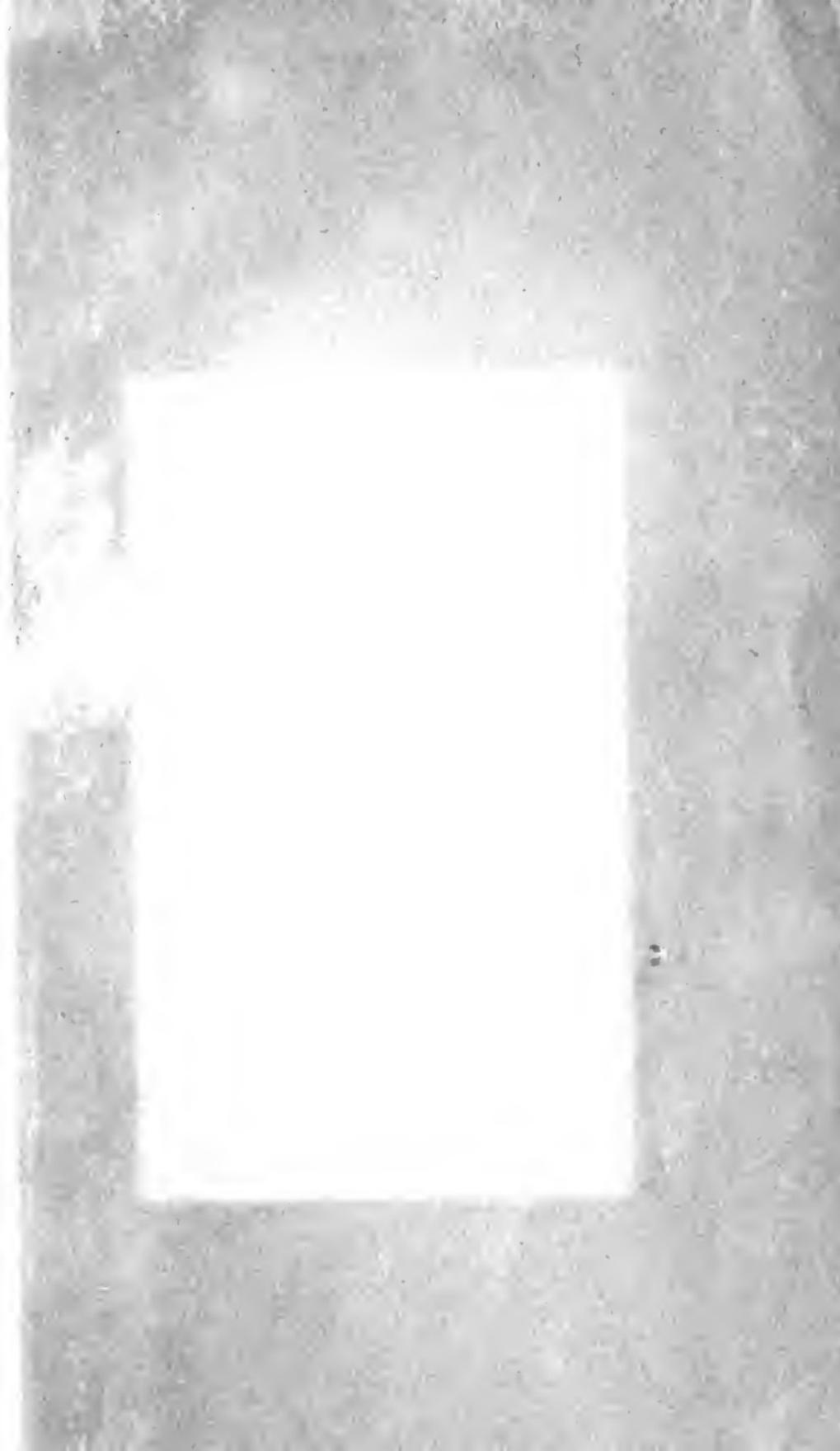
LIBRARY REGISTRATION CARD







Digitized by the Internet Archive  
in 2007 with funding from  
Microsoft Corporation





---

DOCUMENT No. 22.]

[SESS. 1870-'71.

---

*Ordered to be Printed.*

---

JAMES H. MOORE, State Printer and Binder.

---

## RULES FOR THE GOVERNMENT OF THE IMPEACHMENT TRIAL.

---

RULE I. Before proceeding to the consideration of the Articles of Impeachment, the presiding officer shall administer to the members of the Senate then present and to the other members as they shall appear, the following oath: "I \_\_\_\_\_, swear truly and impartially to try and determine the charges in the Articles of Impeachment exhibited against William W. Holden, Governor of the State of North Carolina, under the Constitution and laws thereof according to the evidence: So help me God."

RULE II. The Principal Clerk of the Senate shall act as Clerk of the Court of Impeachment, and shall record the proceedings of the court in the same manner as the legislative proceedings of the Senate.

RULE III. The Doorkeeper of the Senate shall execute all orders of the presiding officer and of the Senate, and he may employ such assistance as may be necessary for that purpose.

RULE IV. Counsel for the parties shall be admitted to appear and be heard upon an impeachment.

RULE V. Before proceeding to the trial on each day the following proclamation shall be made by the Doorkeeper of the Senate: O yes, O yes, O yes all persons are commanded to keep silence on pain of imprisonment, while the Senate of North

Carolina is sitting for the trial of Articles of Impeachment against William W. Holden, Governor of North Carolina.

RULE VI. That the following form of summons be adopted, to wit:

THE STATE OF NORTH CAROLINA.

*The Senate of North Carolina,*

*to William W. Holden, Greeting:*

WHEREAS, The House of Representatives of the State of North Carolina, did, on the 20th day of December, 1870, exhibit to the Senate articles of impeachment against you, the said William W. Holden, which said articles, appended to this summons, demand that you, the said William W. Holden, should be put to answer the accusations as set forth in said articles. And that such proceedings, examinations, trials and judgments might be thereupon had as are agreeable to law and justice, you, the said William W. Holden, are therefore hereby summoned to appear forthwith before the Senate of North Carolina, at their chamber in the city of Raleigh, then and there to answer to the said articles of impeachment, and there to abide by, obey, and perform such orders, directions and judgments as the Senate of North Carolina shall make in the premises, according to the Constitution and laws of North Carolina. Hereof you are not to fail. Witness, R. M. Pearson, Chief Justice and presiding officer of the said Senate, at the city of Raleigh, this 23rd day of December, 1870.

(Signed,) \_\_\_\_\_

R. M. PEARSON,  
*Chief Justice S. C.*

## (PRECEPT.)

THE STATE OF NORTH CAROLINA.

*The Senate of North Carolina,  
To Joseph J. Roberson, Greeting :*

You are hereby commanded to deliver and leave with William W. Holden, a true and attested copy of the within writ of summons and the articles of impeachment thereto appended, together with a like copy of this precept, and let it be done forthwith.

Fail not, and make return of this writ of summons and precept, with your proceedings thereon endorsed, on the appearance day mentioned in said writ of summons.

Witness, R. M. Pearson, Chief Justice and Presiding Officer of the Senate, at the city of Raleigh, this 23d day of December, 1870.

Signed :

R. M. PEARSON,  
*Chief Justice S. C.*

## (RETURN.)

The foregoing writ of summons has been duly served upon William W. Holden, Governor of the State of North Carolina, by delivering to him a copy of the summons and articles of impeachment thereto appended and of this precept, the 23d day of December, 1870.

Signed :

J. J. ROBERSON,  
*Doorkeeper and Sergeant-at-Arms.*

RULE VII. The hour of the day at which the Senate shall sit upon the trial of an impeachment shall be 12 o'clock, M., and when the hour for such sitting shall arrive, the presiding officer of the Senate shall so announce; and thereupon the pre-

siding officer upon such trial shall cause proclamation to be made, and the business of the trial shall proceed until 2 o'clock and thirty minutes, P. M., unless upon a motion, seconded by one-fifth of the members present, the Court shall determine to adjourn earlier or sit longer. The adjournment of the Senate sitting in said trial shall not operate as an adjournment of the Senate; but on such adjournment the Senate shall resume the consideration of its legislative business.

RULE VIII. All motions made by the parties or their counsel shall be addressed to the presiding officer, and if he or any Senator shall require it, they shall be committed to writing and read at the Clerk's desk.

RULE IX. The Reading Clerk of the Senate shall read all papers which may be sent to the clerk's desk, and act as the deputy of the Principal Clerk, and assist in the performance of the duties prescribed for that officer.

RULE X. Witnesses shall be examined by one person on behalf of the party introducing them, and then cross-examined by one person on the other side.

RULE XI. If a Senator is called as a witness he shall be sworn, and give his testimony standing in his place.

RULE XII. If a Senator wishes a question to be put to a witness, or to offer a motion or order, (except a motion to adjourn) it shall be reduced to writing, and put by the presiding officer.

RULE XIII. All preliminary or interlocutory questions, and all motions shall be argued for not exceeding one-half hour on each side, unless the Senate shall, by order, extend the time.

RULE XIV. The case on each side shall be opened by one person. The final argument on the merits may be made by two persons on each side, (unless otherwise ordered by the Senate upon application for that purpose,) and the argument shall be opened and closed upon the part of the House of Representatives.

RULE XV. If the Senate shall at any time fail to sit for the consideration of the articles of impeachment on the day or

hour fixed therefor, the Senate may, by an order to be adopted without debate, fix a day and hour for resuming such consideration.

RULE XVI. Witnesses shall be sworn in the following form : " You solemnly swear that the evidence you shall give in the case now depending between the State of North Carolina and William W. Holden, shall be the truth, the whole truth, and nothing but the truth : So help you God ; " which oath shall be administered by the Clerk of the Senate or other authorized person.

RULE XVII. The following shall be the form of subpoena which shall be issued upon the application of either of the parties or their counsel :

*The Senate of North Carolina,  
To Joseph J. Roberson, greeting :*

You are hereby commanded to summon —— to appear before the Senate of North Carolina on the —— day of ——, 1871, at the Senate Chamber in the city of Raleigh, then and there to testify his knowledge in the cause which is before the Senate, and in which the House of Representatives have impeached William W. Holden.

Fail not, and make due return of the service of this subpoena.

WITNESS, William L. Saunders, Clerk of the Senate, at Raleigh, this —— day of ——, 1871.

—————, *Clerk of the Senate,*

RULE XVIII. All the orders and decisions shall be made and had by yeas and nays upon the demand of one fifth of the members present and without debate, except upon a vote of a majority of the members present allowing discussion, and in that case no member shall speak more than once on one question, and not more than five minutes upon an interlocutory question, and not more than ten minutes on the final question,

unless by consent of the Senate to be had without debate; but each Senator shall be permitted to file, within two days after the vote shall have been taken upon the articles of impeachment, his written opinion, to be printed with the proceedings.

RULE XIX. In taking the votes of the Senate upon the articles of impeachment, the clerk will read the several articles successively, and after the reading of each article the clerk will call the name of each Senator, who shall rise in his place and thereupon the presiding officer put the following question: "Mr —— how say you, is the respondent, William W. Holden, guilty or not guilty as charged in —— article of impeachment; whereupon each Senator shall answer "guilty" or "not guilty."

RULE XX. If the impeachment shall not, upon any of the articles presented, be sustained by the votes of two thirds of the members present, a judgment of acquittal shall be entered; but if the person accused in such articles of impeachment shall be convicted upon any of said articles by the votes of two thirds of the members present, the Senate shall proceed to pronounce judgment, and a certified copy of such judgment shall be deposited in the office of the Secretary of State.





---

*Ordered to be Printed.*

---

JAMES H. MOORE, State Printer and Binder.

---

## PROCEEDINGS OF IMPEACHMENT.

---

*The General Assembly of North Carolina do enact, as follows :*

### CHAPTER —

#### SECTION 1. *Trial Court of Impeachment:*

The court for the trial of impeachment shall be the Senate.

#### SEC. 2. *Quorum:*

A majority of the members shall be necessary to a quorum.

#### SEC. 3. *Exhibition of Articles:*

All impeachments must be delivered by the House of Representatives to the presiding officer of the Senate, who shall thereupon cause proclamation to be made in the following words, viz: "All persons are commanded to keep silence, on pain of imprisonment, while the House of Representatives is exhibiting to the Senate of North Carolina articles of impeachment against ——," after which the articles shall be exhibited, and then the presiding officer of the Senate shall inform the House of Representatives that the Senate will take proper order on the subject of impeachment, of which due notice shall be given to the House of Representatives.

**SEC. 4. *Powers of the Court.***

The Senate as a court shall have power to compel the attendance of parties and witnesses to enforce obedience to its orders, mandates, writs, precepts and judgments, to preserve order, to punish in a summary way contempts of its authority, orders, mandates, writs, precepts or judgments, to adjourn from time to time, and to make all lawful rules and regulations which it may deem essential or conducive to the ends of justice.

**SEC. 5. *Powers of the Presiding Officer:***

The presiding officer of the Senate shall have power :

1. To direct all necessary preparations in the Senate Chamber.
2. To make and issue by himself, or by the Clerk of the Senate, all orders, mandates, writs and precepts authorized by law, or by the Senate.
3. To direct all the forms of procedure during the trial not otherwise specially provided for.
4. To decide, in the first instance, without a division, all questions of evidence and incidental questions, but the same shall, on demand of one fifth of the members present, be decided by the yeas and nays.

**SEC. 6. *When Chief Justice to preside:***

When the Governor of the State, or the Lieutenant Governor, upon whom the powers and duties of the office of Governor have devolved, is impeached, the Chief Justice of the Supreme Court shall preside ; and in a case requiring the Chief Justice to preside, notice shall be given him, by order of the Senate, of the time and place fixed for the consideration of the articles of impeachment, with a request to attend ; and the Chief Justice shall preside over the Senate during the consideration of the said articles, and upon the trial of the person impeached therein. But the Chief Justice shall not vote on any question during the trial, and shall pronounce decision only as the organ of the Senate, with its assent.

**SEC. 7. *Process against the accused to appear and answer.***

The Senate, upon the presentation of articles of impeachment and its organization as a court, shall forthwith cause the person impeached to appear and answer the articles exhibited against him, and upon his appearance, either in person or attorney, he shall be entitled to a copy of the impeachment, and a reasonable time to answer the same.

**SEC. 8. *Accused entitled to Counsel.***

The person accused is entitled, on the trial of the impeachment, to the aid of counsel.

**SEC. 9. *What done when issue is joined.***

When issue is joined in the trial of an impeachment the court shall fix a time and place for the trial thereof.

**SEC. 10. *Oath of members.***

At the time and place appointed, and before the commencement of the trial, the presiding officer of the Senate shall administer to each member of the court then present, and to other members as they may appear, an oath or affirmation truly and impartially to try and determine the charge in question, under the Constitution and laws, according to the evidence. No member of the court shall sit or give his vote upon the trial until he shall have taken such oath or affirmation.

**SEC. 11. *Two-thirds required to convict.***

No person shall be convicted on an impeachment, without the concurrence of two-thirds of the Senators present.

**SEC. 12. *Judgment upon conviction.***

Upon a conviction of the person impeached, judgment may be given that he be removed from office, or that he be disqualified to hold any office of honor, trust or profit under this State, or both, but no other judgment can be pronounced.

**SEC. 13. *Officers suspended by impeachment:***

Every officer impeached shall be suspended from the exercise of his office until his acquittal.

**SEC. 14. *Impeachment of the President of the Senate:***

If the President of the Senate be impeached, notice thereof shall immediately be given to the Senate by the House of Representatives in order that another President may be chosen.

**SEC. 15. *Indictment after conviction:***

Every person convicted on impeachment shall nevertheless be liable to indictment and punishment according to law.

**SEC. 16. *For what offenses liable to be impeached:***

Every officer in the State shall be liable to impeachment for,

1. Corruption or other misconduct in his official capacity.
2. Habitual drunkenness.
3. Intoxication while engaged in the exercise of his office.
4. Drunkenness in any public place.
5. Mental or physical incompetence to discharge the duties of his office.
6. Any criminal matter the conviction thereof would tend to bring his office into public contempt.

**SEC. 17. *When act to have effect:***

This act shall have effect from the date of its ratification.

In General Assembly read three times, and ratified this 10th day of April, A. D. 1869.

(Signed)

JO. W. HOLDEN,

*Speaker House of Representatives.*

(Signed)

TOD. R. CALDWELL,

*President of the Senate.*

## STATE OF NORTH CAROLINA,

OFFICE SECRETARY OF STATE,

Raleigh, January 20, 1871.

I, HENRY J. MENNINGER, Secretary of State, hereby certify  
that the foregoing is a true copy of the original act on file in  
this office.

H. J. MENNINGER,  
*Secretary of State.*





# THE HISTORY OF THE ARTS

BY A. H.

THE HISTORY OF THE ARTS  
BY A. H.  
THE HISTORY OF THE ARTS  
BY A. H.

THE HISTORY OF THE ARTS  
BY A. H.  
THE HISTORY OF THE ARTS  
BY A. H.

THE HISTORY OF THE ARTS  
BY A. H.  
THE HISTORY OF THE ARTS  
BY A. H.  
THE HISTORY OF THE ARTS  
BY A. H.  
THE HISTORY OF THE ARTS  
BY A. H.  
THE HISTORY OF THE ARTS  
BY A. H.

A N S W E R  
TO THE  
ARTICLES OF IMPEACHMENT.

---

SENATE OF THE STATE OF NORTH CAROLINA,  
SITTING AS A COURT OF IMPEACHMENT FOR  
THE TRIAL OF WILLIAM W. HOLDEN, GOVERNOR  
OF THE STATE OF NORTH CAROLINA.

*THE ANSWER of the said William W. Holden, Governor  
of the State of North Carolina, to the Articles of Impeach-  
ment exhibited against him by the House of Representatives  
of the State of North Carolina.*

For answer to the first article he says : That this respondent, on the 4th day of July, 1868, was inaugurated Governor of the State of North Carolina, and entered upon the discharge of his duties with the purpose to administer the government of said State in strict accordance with the obligation of his oath of office, without favor or affection, agreeable to the Constitution and laws of the State, a purpose which he has not intentionally violated in any of his official acts. On the first day of July, A. D. 1868, Jonathan Worth, the immediate predecessor of this respondent in the gubernatorial office, addressed to him a protest, of which the following is a copy :

STATE OF NORTH CAROLINA,  
 EXECUTIVE DEPARTMENT,  
 Raleigh, July 1, 1868.

GOVERNOR W. W. HOLDEN, *Raleigh, N. C.*:

SIR: Yesterday morning I was verbally notified by Chief Justice Pearson that in obedience to a telegram from General Canby, he would to-day, at 10 A. M., administer to you the oath required preliminary to your entering upon the discharge of the duties of civil Governor of the State, and that thereupon you would demand possession of my office. I intimated to the Judge my opinion that such proceeding was premature, even under the reconstruction legislation of Congress, and that I should probably decline to surrender the office to you.

At sundown yesterday evening I received from Colonel Williams, commandant of this military post, an extract from the General Orders, No. 120, of General Canby, as follows:

GENERAL ORDERS, NO. 120.

[EXTRACT.]

"HEADQUARTERS, SECOND MILITARY DISTRICT,  
 Charleston, S. C., June 30, 1868.

"To facilitate the organization of the new State governments, the following appointments are made: To be Governor of North Carolina, W. W. Holden, Governor elect, vice Jonathan Worth, removed; to be Lieutenant Governor of North Carolina, Tod R. Caldwell, Lieutenant Governor elect, to fill an original vacancy, to take effect, July 1, 1868, on the meeting of the General Assembly of North Carolina."

I do not recognize the validity of the late election, under which you and those co-operating with you, claim to be invested with the civil government of the State. You have no evidence of

your election save the certificate of a major-general of the United States army. I regard all you as, in effect, appointees of the military power of the United States and not as "deriving your powers from the consent of those you claim to govern." Knowing, however, that you are backed by military force here, which I could not resist if I would, I do not deem it necessary to offer a futile opposition, but vacate the office without the ceremony of actual eviction, offering no further opposition than this, my protest. I would submit to actual expulsion, in order to bring before the Supreme Court of the United States the question as to the constitutionality of the legislation under which you claim to be the rightful Governor of the State, if the past action of that tribunal furnished any hope of a speedy trial. I surrender the office to you under what I deemed military duress, without stopping, as the occasion would well justify, to comment upon the singular coincidence that the present State Government is surrendered, as without legality, to him whose own official sanction, but three years ago, declared it valid.

I am, very respectfully,

JOHNATHAN WORTH,

*Governor of North Carolina.*

But this respondent was disposed to ascribe this protest against the constitutionality of the legislation under which he had been elected, to causes operating solely upon him by whom it had been offered, and cherished the hope, that it was not concurred in by any considerable body of his fellow-citizens, but that they had resolved to submit, in good faith, to the reconstruction acts of Congress, and to aid him in giving effect to the same. The protest aforesaid was taken up by various newspapers throughout the State, the sentiments therein expressed were lauded and endorsed, and unmistakable evidence given that the government of the State was regarded by many as illegal in its character, and was submitted to only because of inability to overthrow it. Not long after the induction of this respondent

to office, he became officially cognizant of a settled design, existing in various parts of the State, through the aid of secret combinations of a political character, of which he believes the aforesaid protest was the nucleus, practically to render null and void said reconstruction acts, and to set at nought those provisions of the Federal and State constitutions which secure political and civil equality to the whole body of the people, without respect to race, color or previous condition. Determined to avert, if possible, the evil consequences which, it was foreseen, must ensue from the attempt of such combinations to effect the objects for which they had been organized, especially the purpose to assail by force the right of suffrage guaranteed by said acts to his colored fellow-citizens, this respondent deemed it his duty to issue his proclamation of October 12th, 1868, setting forth the nature of the government, giving warning of the consequences that must follow any attempt to subvert the same, and enjoining all magistrates, sheriffs, and other peace officers to be vigilant, impartial, faithful and firm in the discharge of their duties, explaining and enforcing the law, ferreting out offenders, protecting the weak against the strong who may attempt to deprive them of their rights, to the end that the wicked may be restrained, the peace of society preserved, the good name of the State maintained, and the government perpetuated on the basis of freedom and justice to all.

But the said combinations continued to gather strength. The members thereof met in secret, selected the victims to be punished, and perpetrated outrages in the dead of night, through disguised parties, on quiet and unoffending citizens, chiefly colored persons, and always of the Republican party. The Legislature, under the hope of placing some check upon their unlawful acts, and of affording some security to the objects of their vengeance, passed the act of April 12th, 1869, entitled "An Act making the act of going masked, disguised or painted a felony," which this respondent set forth in his proclamation of April 16th, 1869, of which the following is a copy :

A PROCLAMATION BY HIS EXCELLENCY, THE  
GOVERNOR OF NORTH CAROLINA.

EXECUTIVE DEPARTMENT,  
Raleigh, April 16, 1869.

It is my duty to publish the following act, passed by the General Assembly of North Carolina at its recent session :

AN ACT MAKING THE ACT OF GOING MASKED, DISGUISED OR PAINTED A FELONY.

SECTION 1. *The General Assembly of North Carolina do enact,* Any person who shall disguise himself by painting his face, or by wearing any mask or any other device for the concealment of the face or person, with intent to terrify or frighten any citizen of the community, or part thereof, shall be deemed guilty of a misdemeanor, and be punished by fine or imprisonment in the county jail, at the discretion of the court.

Sec. 2. Any person or persons, either singly or in association with each other, who, being disguised or masked, or otherwise concealed in the manner described in the preceding section, shall commit any trespass or act by force or violence, which is now a misdemeanor by any statute of this State, or at common law, shall be deemed guilty of a felony, and shall be imprisoned at hard labor in the Penitentiary for a term of not less than one year, or more than ten years.

Sec. 3. This act shall go into effect on its ratification, and the Governor shall cause the same to be published immediately.

Ratified the 12th day of April, A. D. 1869.

No person in this State can be "in any manner deprived of his life, liberty or property, but by the law of the land." Every man's house is his castle, into which no man can enter to molest or disturb him unless by authority of law. The humblest

and the poorest are entitled to this protection equally with the wealthiest and most exalted. The courts will extend this protection, and the Executive is prepared to sustain the courts, and to do everything within the sphere of his powers and duties to preserve peace and good order in society. Bands of men who go masked and armed at night, causing alarm and terror in neighborhoods, and committing acts of violence on the inoffensive and defenceless, will be followed and brought to justice; and depredators and robbers, who live on the honest earnings of others, will be made to feel the penalty due to their crimes.

It is hoped the evils complained of, and which are confined to a few localities, will speedily cease. The great body of the people of the State are submitting quietly and peaceably to established authority, and laboring assiduously to retrieve their fortunes and improve their condition. I appeal to this great body of the people to unite with me in discountenancing and repressing the evils referred to. Public opinion properly embodied and expressed will be more effectual in repressing these evils, and in promoting the general good that will result from the complete establishment of peace and order in every neighborhood in the State, than the execution of the law itself against offenders in a few individual cases. I respectfully and earnestly invoke this public opinion. By the regard which we all have for the peace of society and the good name of the State, I call upon every citizen to unite with me in discountenancing disorders and violence of all kinds, and in fostering and promoting confidence, peace and good will among the whole people of the State.

Done at our City of Raleigh, this the 16th day of April, one thousand eight hundred and sixty-nine, and in the year of the Independence of the United States the ninety-third.

W. W. HOLDEN, *Governor,*

By the Governor:

W. R. RICHARDSON, *Acting Private Secretary.*

For a more detailed statement of the purposes and objects of the said secret political combinations, and of the means which they adopted to effect said purposes and objects, and of the outrages which they perpetrated, this respondent refers to his message of November 22d, 1870, to the Honorable the General Assembly of North Carolina, and quotes therefrom as follows :

"These combinations were at first purely political in their character, and many good citizens were induced to join them. But gradually, under the leadership of ambitious and discontented politicians, and under the pretext that society needed to be regulated by some authority outside or above the law, their character was changed, and these secret Klans began to commit murder, to rob, whip, scourge and mutilate unoffending citizens. These organizations, or these combinations were called the Ku Klux Klan, and were revealed to the public, as the result of the measures which I adopted, as '*The Constitutional Union Guards*,' '*The White Brotherhood*,' and '*The Invisible Empire*.' Unlike other secret political associations, they authorized the use of force, with deadly weapons, to influence the elections. The members were united by oaths which ignored or repudiated the ordinary oaths or obligations resting upon all other citizens to respect the laws and uphold the government; these oaths inculcated hatred by the white race against the colored race; the members of the Klan, as above stated, were hostile to the principles on which the government of the State had been reconstructed, and, in many respects, hostile to the government of the United States. They met in secret, in disguised, in arms, in a dress of a certain kind intended to conceal their persons and their horses, and to terrify those whom they menaced or assaulted. They held their camps, and under their leaders they decreed judgment against their peaceable fellow-citizens, from mere intimidation to scourgings, mutilations, the burning of churches, school-houses, mills, and in many cases to murder. This organization, under different names, but cemented by a common purpose, is believed to have embraced not less

than forty thousand voters in North Carolina. It was governed by rules more or less military in their character, and struck its victims with such secrecy, swiftness and certainty as to leave them little hope either for escape or mercy. The members were sworn to obey the orders of their camps even to assassination and murder. They were taught to regard oaths administered before magistrates and in Courts of Justice, as in no degree binding when they were called upon to give testimony against their confederates. They were sworn to keep the secrets of the order—to obey the commands of the Chief—to go to the rescue of a member at all hazards, and to swear for him as a witness, and acquit him as a juror. Consequently, Grand Juries in many counties frequently refused to find bills against the members of the Klan for the gravest and most flagrant violations of law; and when bills were found, and the parties were arraigned for trial, witnesses, members of the order, would in nearly every case come forward, and, taking an oath before the Court on the Holy Evangelists to tell the truth, the whole truth, and nothing but the truth, would swear falsely, and would thus defeat the ends of justice. There are, at least, four Judges and four Solicitors in the State who will bear witness to the fact, from their own experience, that it was very difficult, if not impossible, to convict members of this Klan of crimes and misdemeanors. I have information of not less than twenty-five murders committed by members of this Klan, in various counties of the State, and of hundreds of cases of scourging and whipping. Very few, if any, convictions have followed in these cases. The civil law was powerless. One State Senator was murdered in the open day in a County Court-house, and another State Senator was driven from the State, solely on account of their political opinions. In neither case was a bill found by a Grand Jury. A respectable and unoffending colored man was taken from his bed at night, and hanged by the neck until he was dead, within a short distance of a County Court-house. Another colored man was drowned, because he spoke publicly of persons who aided in the commis-

sion of this crime. No bills were found in these cases. A crippled white man, a native of Vermont, was cruelly whipped because he was teaching a colored school. No bill was found in this case. The Sheriff of a County was waylaid, shot and killed on a public highway, and the Colonel of a County was shot and killed in the open day, while engaged in his usual business. A County jail was broken open, and five men taken out and their throats cut. Another jail was broken open, and men taken out and shot, one of whom died of his wound. Another jail was broken open, and a United State's prisoner released. No punishments followed in these cases. The members of this Klan, under the orders of their Chiefs, had ridden through many neighborhoods at night, and had punished free citizens on account of their political opinions, and had so terrified many of them by threats of future visitations of vengeance that they fled from their houses, took refuge in the woods, and did not dare to appear in public to exercise their right of suffrage. Some of these victims were shot, some of them were whipped, some of them were hanged, some of them were drowned, some of them were tortured, some had their mouths lacerated with gags, one of them had his ear cropped, and others, of both sexes, were subjected to indignities which were disgraceful not merely to civilization but to humanity itself. The members of this Klan, under the orders of their Chiefs, had ridden, defiantly and unmolested, through the towns of Hillsborough, Chapel Hill, Pittsborough and Graham, committing crimes, defying the lawful authorities, and causing real alarm to all good people. In fine, gentlemen, there was no remedy for these evils through the civil law, and but for the use of the military arm, to which I was compelled to resort, the whole fabric of society in the State would have been undermined and destroyed, and a reign of lawlessness and anarchy would have been established. The present State government would thus have failed in the great purpose for which it was created, to-wit: the protection of life and property under equal laws; and, necessarily the national government would have

interfered, and, in all probability, would have placed us again and for an indefinite period under military rule."

Which he desires to be taken as a part of this his answer and all of which he is prepared to sustain by proof.

This respondent, actuated by a sincere desire to restore the good order of society in the State, and determined to use all peaceful ways and means to bring back those misguided men to a sense of their duty to their fellow-citizens, and to cause them to abandon the said organizations, issued, on the 20th day of October, 1869, his proclamation of which the following is a copy:

"A PROCLAMATION BY HIS EXCELLENCY, THE GOVERNOR OF NORTH CAROLINA.

EXECUTIVE DEPARTMENT,  
RALEIGH, October 20th, 1869.

"Notwithstanding the existence of peace and good order in other portions of the State, I regard it as my duty to announce that in four Counties, to-wit: Lenoir, Jones, Orange and Chatham, there is, and has been for some months past, a feeling of insubordination and insurrection, insomuch that many good citizens are put in terror for their lives and property; and it is difficult, if not impossible, to secure a full and fair enforcement of the law. Information has reached, and continues to reach the Executive, that in the above Counties a state of feeling exists which is totally incompatible with the free exercise, by the friends of the Government, of that independent expression of opinion, and that freedom of action which is the birthright of every American. In Lenoir and Jones various thefts and murders have been committed; jails have been forcibly opened and the prisoners taken thence have been murdered; an officer of the law has been waylaid and slain on the public highway, and another officer of the law has been slain in open day while engaged in his ordinary avocations. Private

dwellings have been entered and the occupants terrified, and some of them whipped or murdered; others have been shot or cruelly beaten; and the result is that thus far the civil law, though firmly asserted and maintained, has not been adequate to bring the insubordinate and the wicked to condign punishment. In Chatham the jail has been forcibly opened and a prisoner, confined under sentence of a Court of the United States, has been liberated and is now at large. In Orange the jail has been forcibly opened and two prisoners (colored men) taken out and shot, one of whom has died of his wounds. Three other colored men have been hanged until they were dead, one has been cruelly mutilated, and others have been whipped. White citizens have been injured, insulted and terrified. The University of the State, sacred to the cause of learning, has been repeatedly invaded by bands of armed men in disguise on horseback, and acts of violence have been there perpetrated on unoffending citizens and officers of the law. Many of the colored people in these Counties, and no inconsiderable portion of the white people, though obedient to the law and good citizens, are living under constant apprehensions that they may fall victims at any moment to the malice of their enemies.

"It is made my duty under the Constitution "to call out the militia to execute the law, suppress riots or insurrection and to repel invasion." I deeply regret that it seems necessary to resort to the military power to enforce the law and to protect the citizen. But the law must be maintained. I have waited in vain, hoping that a returning sense of reason and justice would arrest these violations of the law. But these evils, instead of diminishing have increased, and no course is left to me but to issue this proclamation of admonition and warning to all the people of the Counties mentioned, whether engaged in these flagrant violations of law, or whether indifferent or insensible to what is occurring in their midst. I now call upon every citizen in the Counties aforesaid to aid the civil power in a fearless enforcement of the laws. No set of men

can take the law into their own hands. Every citizen, however humble, or whatever his color, has a right to be at peace in his own house, and cannot be taken thence except by due process, and cannot be punished save by the law. If there be those who counsel resistance to established authority, such persons are traitors and should be punished accordingly; if there be those who, disguised or masked, enter the dwellings of others by force and commit acts of violence, such persons are guilty of felony, and should be punished by hard labor in the penitentiary; if there be those who, without precept or order, hang, or shoot, or otherwise deprive any one of life, such persons are murderers, and should be punished accordingly.

"I now give notice in the most solomn manner that these violations of law and these outrages in the aforesaid Counties *must cease*; otherwise, I will proclaim those Counties in a state of insurrection, and will exert the whole power of the State to enforce the law, to protect those who are assailed, or injured, and to bring criminals to justice. In a matter like this there should be no party feeling. It is my fixed purpose to protect every citizen without regard to his antecedents, his color or his political opinions; but to do this the law must be sacred, must be spread over all alike, and must be inflexibly maintained.

§ L. S. § "Done at our City of Raleigh, this the 20th day of October, in the year of our Lord, one thousand eight hundred and sixty-nine, and in the ninety-fourth year of our Independence.

W. W. HOLDEN, *Governor.*

By the Governor:

W. R. RICHARDSON, *Private Secretary.*"

The said organizations extended into the counties of Alamance and Caswell, with, if possible, redoubled atrocity in the means to which their members resorted to carry out their illegal objects, when the Legislature, moved by the fearful dis-

orders which had so alarmingly increased in these and other counties, passed the act of January 29th, 1870, entitled "An act to secure the better protection of life and property," which authorizes and empowers the Governor "whenever in his judgment the civil authorities in any county are unable to protect its citizens in the enjoyment of life and property, to declare such county to be in a state of insurrection, and to call into active service the militia of the State, to such an extent as may become necessary to suppress such insurrection; and in such case the Governor is further authorized to call upon the President for such assistance, if any, as in his judgment may be necessary to enforce the law."

Within a few days after the ratification of the said act, a body of armed men to the number of fifty or more, members of the aforesaid organizations, disguised by masks and other means, intending to awe members of the Republican party throughout the State, by putting to death certain Republican citizens of Alamance county, did, on the night of the 26th of February, 1870, enter the town of Graham, the shire town of the said county of Alamance, with the purpose and intent of putting to death every adult Republican male resident of the said town of Graham, and did, with such purpose and intent, visit the houses of all such residents, and did drag from his bed and put to death by hanging, in the public square of said town, one Wyatt Outlaw, an old colored man, whose only offence was that he belonged to the said Republican party. But for the fact that the other adult male Republican residents of said town succeeded in making their escape, it is believed that they would have shared the same fate.

This respondent, notwithstanding the aforesaid atrocities so subversive of the good order of society, was reluctant to have recourse to the extraordinary means provided by the Constitution of the State and the aforesaid act of January 27th, 1870, in order to repress the same, but still hoped that he could effect the said object by means of the civil power alone. In addition to the proclamations already herein set forth, he ad-

dressed letters to various civil and military officers and citizens of the State, urging the necessity of repressing the said outrages, and of enforcing the law. In the early part of 1870 he enlisted in Chatham county, the services of Captain N. A. Ramsay, and in Orange county, of Captain Pride Jones, both belonging to the political party opposed to him, to aid in composing the troubles in those counties.

The number of the order in Alamance county, as stated by a credible witness under oath, was between 700 or 800; in Guilford county 1200; the number in Caswell county was not stated, but the order extended over the State and numbered 40,000 members. Many citizens of Alamance and Caswell counties had been scourged, whipped, mutilated and murdered, with impunity, the civil law had become a by-word and a reproach, and it having become evident, in the judgment of this respondent that the civil authorities of the county of Alamance were unable to protect the citizens thereof in the enjoyment of life and property, this respondent deemed it his imperative duty, to exercise the powers vested in him by the Constitution and laws of the State, and on the 7th day of March, 1870, issued his proclamation as Governor of North Carolina, declaring the county of Alamance in a state of insurrection, of which the following is a copy:

**“A PROCLAMATION BY HIS EXCELLENCY, THE GOVERNOR OF NORTH CAROLINA.**

**EXECUTIVE DEPARTMENT,  
RALEIGH, March 7th, 1870.**

“ By virtue of authority vested in me by the Constitution of the State, and by virtue of an act passed at the present session of the General Assembly, entitled “ An act to secure the better protection of life and property,” ratified the 29th day of January, 1870, and for the reason that the civil authorities of the County of Alamance are not able to protect the citizens of said

County in the enjoyment of life and property, I hereby proclaim and declare that the County of Alamance is in a state of insurrection.

"On the 26th day of November, 1869, a citizen of the United States, who was engaged in teaching a school in said County, was taken from his house by a band of men armed and disguised, and was by them cruelly beaten and scourged.

"On the night of the 26th of February, 1870, a citizen of said County was taken from his house by a band of men armed and disguised, and was by them hanged by the neck until he was dead, on the public square in the town of Graham, near the Court House.

"And more recently the Postmaster at Company Shops, in said County, an officer of the government of the United States, was compelled to flee the County, and while absent a band of men armed and disguised visited his house, with the purpose, doubtless, of taking his life; and this within a short distance of Federal troops stationed in said County, [not to overawe or intimidate good citizens, but to preserve the peace and to protect the innocent and law-abiding.

"In addition to these cases information has been received at this department that peaceable and law-abiding citizens of the County aforesaid have been molested in their houses, have been whipped, shot, scourged, and threatened with further visitations of violence and outrage unless they would conform to some arbitrary standard of conduct set up by these disguised assassins and murderers.

"I have issued proclamation after proclamation to the people of the State, warning offenders and wicked or misguided violators of the law to cease their evil deeds, and, by leading better lives, propitiate those whose duty it is to enforce the law. I have invoked public opinion to aid me in repressing these outrages, and in preserving peace and order. I have waited to see if the people of Alamance would assemble in public meeting and express their condemnation of such conduct by a portion of the citizens of the County, but I have

waited in vain. No meeting of the kind has been held. No expression of disapproval even of such conduct by the great body of the citizens has yet reached this Department; but, on the contrary, it is believed that the lives of citizens who have reported these crimes to the Executive have been thereby endangered, and it is further believed that many of the citizens of the County are so terrified that they dare not complain, or attempt the arrest of criminals in their midst. The civil officers of the County are silent and powerless.

"The laws must be maintained. These laws are over all. Every citizen of whatever party or color, must be absolutely free to express his political opinions, and must be safe in his own house. These outrages and these violations of law must and SHALL cease. Criminals must and shall be brought to justice. The whole power of both governments, State and Federal, is pledged to this, and this power will be exerted. Criminals who may escape to Counties adjoining Alamance will be pursued, and if not delivered up by the civil authorities of said counties, or if sheltered or protected in said Counties with the knowledge of the civil authorities, the said counties will also be declared to be in a state of insurrection.

"I earnestly appeal to all good citizens to aid the civil authorities in maintaining peace and good order, and to support me in my purpose to protect life and property without regard to party or color.

"Done at the city of Raleigh, this 7th day of March, 1870, and in the 94th year of our Independence.

W. W. HOLDEN, *Governor.*

By the Governor:

W. R. RICHARDSON, *Private Secretary.*"

And which he prays may be taken as a part of this his answer.

Undeterred by the proceedings taken for the protection of society in the county of Alamance, the aforesaid organizations continued to perpetrate outrages in the county of Caswell, reference to some of which is made in a proclamation of this respondent of July 6, 1870, of which the following is a copy:

A PROCLAMATION BY HIS EXCELLENCY, THE  
GOVERNOR OF NORTH CAROLINA

EXECUTIVE DEPARTMENT,  
Raleigh, June 6th, 1870.

"WHEREAS, In January or February, 1869, the house of Daniel Blue, colored, in the county of Moore, was entered at night by a band of disguised men, known as the Ku Klux Klan, and the wife of the said Blue, who was pregnant, and five of the children, were murdered, and the house with the bodies of the murdered persons aforesaid was burned; and

"Whereas, on the 26th of February, 1870, Wyatt Outlaw, colored, a citizen of Alamance, was taken from his house in the town of Graham by disguised persons known as the Ku Klux, and hanged by the neck until he was dead, on a tree near the Courthouse; and

"Whereas, on the 21st day of May, 1870, John W. Stephens, white, State Senator from the county of Caswell, was murdered in open day-light in the Courthouse in the village of Yanceyville, by persons unknown, supposed to belong to the Ku Klux Klan aforesaid; and

"Whereas, on the 13th of May, 1870, Robin Jacobs, colored, living near Leasburg, Caswell county, was murdered at night by a band of Ku Klux Klan aforesaid; and

"Whereas, from the 2d of April, 1870, to the 15th of May, 1870, not less than twenty-one persons, white and colored, in the aforesaid county of Caswell, were cruelly whipped and scourged by a band or bands of the aforesaid Ku Klux Klan; and

"Whereas, during the week ending the 14th of May, 1870, a colored man, in the county of Lincoln, was taken from his bed at night and tied to a tree by a band of disguised persons known as the Ku Klux Klan, and cruelly whipped; and

"Whereas, about the same time, in said county, a band of

men disguised, known as the Ku Klux Klan, in said county, shot a colored man on the public highway, and then told him they had shot him through mistake for another colored man, but laid him on a pile of fence rails and told him to cry for help; and

“Whereas, a colored man named Puryear, of the county of Alamance, supposed to be half-witted, having followed two of the disguised murderers of Wyatt Outlaw to their homes, and having spoken of the fact publicly, suddenly disappeared, and was found drowned in a mill pond with a twenty-pound rock to his feet; and

“Whereas, T. M. S. Hoffner, one of the Senators in the General Assembly of this State from the Counties of Alamance and Guilford, has been compelled to sacrifice his property, and, to save his life, to make his escape from said county on account of his opposition to the Ku Klux Klan aforesaid, and his devotion to the government of the United States; and

“Whereas, on the 26th of May, 1870, a most atrocious murder was committed by three disguised men on Neill McLeod and Daniel McLeod, white, of the county of Cumberland, and three others of the family were wounded by these assassins; and

“Whereas, in divers other localities peaceable citizens have been insulted in their homes, put in fear of their lives, whipped, scourged, maltreated, mutilated and murdered by persons disguised and known as the Ku Klux Klan; and

“Whereas, retaliation has commenced by the burning of barns, stables and mills; and

“Whereas, all these evils are to be traced to the Ku Klux Klan aforesaid, though no apology can be offered for the retaliation referred to, for it is equally to be deplored and reproba-ted as a wicked violation of the law; and upon due informa-tion laid before me, (which information has not been furnished,) that barns, or stables, or mills, or dwelling houses, have been burned by incendiaries, mentioning localities and the persons to whom the said barns, or stables, or mills, or dwelling houses

belonged, rewards will also be offered for the arrest and conviction of the incendiaries aforesaid :

"Now, THEREFORE, I, WILLIAM W. HOLDEN, Governor of the State of North Carolina, do issue this my proclamation, offering a reward of FIVE HUNDRED DOLLARS for the arrest of each of the murderers of the wife and children of Daniel Blue, of each of the murderers of Wyatt Outlaw, of each of the murderers of John W. Stephens, of each of the murderers of Robin Jacobs, of each of the persons who murdered Puryear, and of each of the persons who murdered Neill McLeod and Daniel McLeod, and robbed the family of the said Neil McLeod, together with such evidence as will lead to the conviction of the persons thus arrested ; those who planned, advised or counselled the commission of this act ; those who participated in the act or acts ; or those who conspired to conceal the bodies of the murdered, or aided in the concealment and escape of the felons :

And I enjoin upon all officers, civil and military, to aid in bringing these and all other offenders to justice ; and especially to discountenance, discourage and repress, all organizations of men who ride or walk at night in disguise, with arms in their hands. It is a misdemeanor thus to go disguised, and it is felony if these disguised persons molest or injure peaceable citizens in their life and property.

§~~~~~§      Done at our city of Raleigh, this sixth day of June,  
 §~~~~~§      L. S.      in the year of our Lord one thousand eight hundred  
 and seventy, and in the ninety-fourth year of our Independence.

W. W. HOLDEN, *Governor.*

By the Governor :

W. R. RICHARDSON, *Private Secretary.*

And which he prays to be taken as a part of this his answer. But the hope of pecuniary reward, and the fear of punishment proved alike unavailing. Actuated by the same imperative sense of duty by which he was impelled in the case of the county of Alamance, and it having become evident to his judg-

meut, that the authorities of the county of Caswell were unable to protect the citizens thereof in the enjoyment of life and property, this respondent, in the exercise of the powers vested in him by law, on the 8th day of July, 1870, issued his proclamation, as Governor of North Carolina, declaring the county of Caswell in a state of insurrection, of which the following is a copy:

A PROCLAMATION BY HIS EXCELLENCY, THE GOVERNOR OF NORTH CAROLINA.

EXECUTIVE DEPARTMENT,  
RALEIGH, July 8th, 1870.

In accordance with authority vested in me by the Constitution of the State of North Carolina, and by virtue of an act passed at the last session of the General Assembly, entitled "An act to secure the better protection of life and property," ratified the 29th day of January, 1870, *I hereby declare the county of Caswell to be in a state of insurrection.*

Done at our city of Raleigh, this the 8th day of <sup>L. S.</sup> July, in the year of our Lord one thousand eight hundred and seventy, and in the ninety-fifth year of our Independence.

W. W. HOLDEN, *Governor.*

By the Governor :

W. R. RICHARDSON, *Private Secretary.*

This respondent therefore denies and declares to be both false and scandalous, the allegation in said first article, that

"William W .Holden, Governor of said State, unmindful of the high duties of his office, the obligation of his solemn oath of office, and the Constitution and laws of said State, and intending to stir up civil war and subvert personal and public liberty and the Constitution and laws of said State, and of the United States, and contriving and intending to humiliate and degrade the said State and the people thereof, and especially the people of the county of Alamance, and to provoke the people to wrath

and violence, did, under color of said office, on the seventh day of March, in the year of our Lord, one thousand eight hundred and seventy, in said State, of his own false, corrupt and wicked mind and purpose, proclaim and declare that the county of Alamance, in said State, was in insurrection."

"On the contrary this respondent caused the said proclamation, as well in the case of the county of Alamance as in the county of Caswell, to be issued in his official capacity as Governor of the State of North Carolina, truly for the causes therein and herein set forth, and not until, in his judgment, the civil authorities in each of the said counties had become unable to protect the citizens thereof in the enjoyment of life and property, and he had been long and constantly importuned by letters from citizens in various parts of the State, and in person, by many of the victims of the outrages which are herein detailed, and urged and counseled by many of the most respectable citizens of the State, to adopt the said means as some protection to society in said counties.

Further answering, this respondent denies the allegation in said first article that this respondent "did, after the days and times last aforesaid (meaning after the 7th day of March, 1870,) send bodies of armed, desperate and lawless men, organized and set on foot without authority of law, into said county, and occupy the same by military force, and suspend civil authority, and the Constitution and laws of the State ; and did, after the days and times last aforesaid, and before the time of impeachment in this behalf, through and by means of such armed, desperate and lawless men, arrest many peaceable and law-abiding citizens of said county of Alamance, then and there about their lawful business ; and did detain, hold, imprison, hang, beat and otherwise maltreat and injure many of them, to wit : Lucien H. Murray, George S. Rogers, William Bingham, Alexander Wilson, Walter Thornton, William Redding, Thomas M. Holt, George Andrews, John Andrews, Frederick Blanchard, Adolphus G. Moore, John Roberson, James N. Holt, William Tate, Alexander Patton, Jesse Grant, Lemuel Whitsett, Josiah

Thompson, Sidney Steel, George Johnson, William Patton, Joseph Wright, Benjamin McAdams, Ruffin Andrews, Thomas Ray, Joseph Prichard, Lofton Tear, Joseph Thompson, Henry Cooke, William Andrews, M. N. Shaw, John Long, James H. Anderson, Joseph Gibson, Henry Prichard, Joseph Nelson,, James R. Murphy, Jr., William Kirkpatrick, Thomas Gray, Jefferson Younger, Frank Mebane, Clement Curtis, John W. McAdams, William Moore, William Clendenen, D. W. Weeden, Daniel Moses, P. Thompson, David Moore, Monroe Fowler, Henry C. Hurdle, William Whitsett, Albert Murray, J. G. Moore, Joseph Kirkpatrick, W. V. Montgomery, John Trollinger, Jerry Whitsett, Calvin Gibson,, John G. Albright, Robert Hannah, William Johnson, Henderson Scott, William Stockard, James Dickson, K. A. Albright, Thomas Lutterloh, John Grant, James Foust, John Curtis, A. Thompson, Robert Stockard, J. A. Moore, James T. Hunter, John S. Scott, John Smith, George Andrews, Milton Packard, Henry Robertson, John R. Stockard, John Curtis and Joseph Stockard, when in fact and truth there was no such or any insurrection in said county of Alamance," and declares the fact to be : That by the provisions of an act of the General Assembly of the State of North Carolina, entitled "An act to organize a militia of North Carolina," ratified the 17th day of August, 1868, the Governor is authorized to accept and organize regiments of volunteer infantry not exceeding six; also to accept and organize battalions of cavalry not to exceed three, and one volunteer battery of artillery. And the Governor is required to appoint and commission all the officers thereof, and, according to the provisions of said act, this respondent, as Governor of North Carolina, caused to be organized a body of volunteer militia of good and lawful men, and of good behavior and deportment, and appointed and commissioned citizens of North Carolina, and no others, officers thereof, and having declared the said counties of Alamance and Caswell to be in a state of insurrection, as, by the Constitution and laws of North Carolina, he, as Governor thereof, under the

circumstances herein set forth, was empowered and had a right to do, he directed the said body of militia, so by him organized, to proceed into the counties of Alamance and Caswell, so declared by him to be in a state of insurrection as aforesaid, for the purpose, and no other, of protecting the inhabitants thereof in the enjoyment of life and property, and issued to the officers in command of the same an order, of which the following is a copy:

STATE OF NORTH CAROLINA,  
ADJUTANT GENERAL'S OFFICE,  
Raleigh, July 13th, 1870.

SPECIAL ORDER No. 11.

Col. G. W. Kirk, commanding 2nd Regiment North Carolina State Troops, will at once procure the necessary transportation for his camp equipage, and proceed to Yanceyville, and assume command of Alamance and Caswell Counties.

He will take the necessary steps to preserve order, and to give the fullest protection to life and property.

He will take charge of the public buildings, and arrest and hold for examination persons accused of felonies, especially those charged with, or of being accessory to the murder of J. W. Stephens and Wyatt Outlaw.

By command of Gov. HOLDEN, Commander-in-Chief,  
A. W. FISHER, *Adj't Gen'l.*

This respondent admits that under the aforesaid general order, the persons named in said first article, were arrested and detained and held for examination by the officers commanding the said organized body of militia in the county of Alamance, and that this respondent, as Governor of North Carolina, did approve of their said arrest and detention, but this respondent was informed and believes and so charges that the said persons and each of them were suspected persons, and arrested on probable cause, for crimes alleged to have been committed by them and each of them. This respondent denies that said

named persons, or any of them, were hanged, beaten, or otherwise maltreated, or injured, as alleged in said first article, but if the said persons, or any of them, were in anywise maltreated or injured, the same was done contrary to the orders and without the advice, procurement, knowledge or consent of this respondent; on the contrary the orders of this respondent were to treat all such persons as it might be found necessary to arrest humanely and kindly.

This respondent denies, and declares to be false, the allegations in said 1st article charging that he, the said "William W. Holden, Governor as aforesaid, well knew that such and said proclamation was groundless and false, and that there was no insurrection in said county, and that all civil authorities, both State and County, in said county, were peacefully and regularly in the full, free and unrestrained exercise in all respects of the functions of their offices, and the courts were all open, and the due administration of the law was unimpeded by any resistance whatsoever, whereby the said William W. Holden, Governor as aforesaid, did then and there, and in the way and manner, and by the means aforesaid, commit and was guilty of a high crime in office, against the Constitution and laws of said State, and the peace, interests and dignity thereof."

On the contrary this respondent declares the facts to be as in the premises he has answered and set forth, and further this respondent says that a majority of the white adult male citizens of the said county of Alamance, and also of the county of Caswell, including the Sheriff of said county of Alamance, were members of the Ku Klux organizations aforesaid. Grand juries refused to find true bills against members of the said organizations, or if perchance any were found against such members, petit juries refused to convict the same, magistrates failed to act, and the Judge and Solicitor of the District attended the Courts merely as a matter of form, a reign of terror existed, and the administration of justice was wholly impeded. In no one instance had the perpetrators of the crimes and felonies herein detailed and set forth been brought to justice, men, obnoxious

to the illegal organizations aforesaid, dare not sleep beneath their roofs at night, but, abandoning their wives and children, wandered in the woods till day, murder stalked abroad in the land, and those whose hands were red with the blood of their victims remained unnoticed and unpunished.

Further answering, this respondent denies that he was actuated by any false, corrupt and wicked mind and purpose, in proclaiming and declaring the said counties of Alamance and Caswell in a state of insurrection ; on the contrary he was therein actuated by the purest motives, by a sincere desire to restore the efficiency of the civil authority, to protect life and property, and to promote the welfare of the people of the whole State.

Further answering, this respondent says that the Constitution of North Carolina and the laws then in force, vested in the Governor thereof, a discretionary power to declare a county to be in a state of insurrection, whenever in his judgment the civil authorities thereof were unable to protect its citizens in the enjoyment of life and property, that full faith and credit are to be given to the action of this respondent as Governor of North Carolina in declaring, as aforesaid, the counties of Alamance and Caswell in a state of insurrection, and he submits and insists that his said action cannot be questioned by any other department of the government.

Further answering, this respondent denies the allegation in said first article that he was guilty of a high crime in office against the Constitution and laws of said State and the peace, interests and dignity thereof.

---

## ANSWER TO ARTICLE II.

And for answer to the said second article, this respondent says, that he abides by his answer to the said first article, insofar as the same is responsive to the allegations contained in the

said second article, and without here again repeating the same answer, prays the same to be taken as an answer to this second article, as fully as if here again set out at length ; and as to the new allegation contained in the said second article, that this respondent did detain, hold, imprison, and otherwise maltreat and injure John Kerr, Samuel P. Hill, William B. Bowe, Nathaniel M. Roane, Frank A. Wiley, Jesse C. Griffith, J. T. Mitchell, Thomas J. Womack, A. G. Yancey, John McKee, A. A. Mitchell, Yancey Jones, J. M. Neal, Barzillai Graves, Robert Roane, James R. Fowler, M. C. Hooper, James C. Williamson and Peter H. Williamson, this respondent admits that the said named parties were arrested and detained and held for examination in the said county of Caswell by officers commanding the organized body of militia therein, and that this respondent, as Governor of North Carolina, did approve of their arrest and detention, but this respondent was informed and believes and so charges that the aforesaid persons, and each of them were arrested on probable cause, and were either suspected persons, or persons accused of being accessories or principals in offences against the laws. But this respondent denies that the said named persons, or any of them, were maltreated and injured, or if the said persons, or any of them, were maltreated or injured, as alleged in said second article, the same was done contrary to the orders, and without the advice, procurement, knowledge or consent of this respondent.

Further answering, this respondent denies all and all manner of allegations in said second article set forth which he has not already answered.

Further answering, this respondent denies, as alleged in said second article, that he was guilty of a high crime in office against the Constitution and laws of said State, and the peace, interests and dignity thereof, as in said second article set forth.

### ARTICLE III.

And for answer to the said third article, this respondent says

that he abides by his answer to the first and second articles, in so far as the same is responsive to the allegations contained in said third article, and without here again repeating the same answer, prays the same to be taken as an answer to this third article as fully as if here set out at length, and as to the new allegation contained in said third article, this respondent says: That the said Josiah Turner, Junior, was, on the fifth day of August, 1870, and for some time previous thereto had been, and now is, editor of a newspaper published in the city of Raleigh, in said State, and known as the *Sentinel*, which at that time had a large circulation, and for some time previous thereto had circulated largely in the said counties of Alamance and Caswell. By his writings in said newspaper, as well as by his public speeches, made in various parts of the State, and by a continued course of agitation which he had pursued, the said Josiah Turner, Junior, in the judgment of this respondent, had contributed largely to produce the deplorable state of affairs which existed in the said counties of Alamance and Caswell, as detailed in the answer of this respondent to article first, and which had compelled this respondent to declare said counties in a state of insurrection, as set forth in his said answer to the said first article. This respondent was led to believe, and did believe, the said Josiah Turner, Junior, to be a member of the aforesaid illegal organizations, and well knew that the said Josiah Turner, Junior, by his writings and speeches, unmindful of his duty as a citizen, and of the peace of the State, was using his endeavors at and in the said counties of Alamance and Caswell to bring about a collision between the militia stationed in the counties of Alamance and Caswell and the citizens thereof, and to persuade, incite and induce the citizens of the aforesaid counties to eject the said militia by force therefrom, and was likewise endeavoring to persuade, incite, and induce the citizens of other parts of the State to enter the said counties of Alamance and Caswell, and to drive therefrom by force of arms the said militia stationed therein, although the said Josiah Turner, Junior, well knew that the said counties of

Alamance and Caswell had been proclaimed by this respondent as Governor of North Carolina, to be in a state of insurrection, and that the said militia had been stationed therein to protect the citizens thereof in the enjoyment of life and property, and all this by due warrant of law. Moreover the said Josiah Turner, Junior, under a morbid craving for notoriety, a desire to advance his political prospects, and a hope to increase his patronage as a citizen and editor amongst his political friends, did resort to various ways and means to procure his own arrest, and to that end frequently challenged and dared this respondent to make the same, expressing his purpose to protect himself by force of arms and declaring that he should be arrested only over the dead bodies of such as might attempt the same, and counseling the citizens of Alamance and Caswell counties to pursue the like course whenever any efforts should be made to arrest them, or any of them, by the officers commanding the militia stationed in said counties. This respondent, thus having reason to believe that the said Josiah Turner, Junior, would endeavor to provoke his own arrest, gave express verbal orders to the officers commanding the said body of militia in Alamance and Caswell counties not to arrest the said Josiah Turner, Junior, at any point or place beyond the limits of said last named counties. But this respondent having good reason to believe that the said Turner was a member of the illegal organizations aforesaid and a seditious person, inimical to the good order of society and the peace of the State, an apologist and an instigator of all the outrages which had been committed in the aforesaid counties, as in the premises detailed and set forth, and was then in fact engaged at and in the said counties in the effort to bring about a state of civil war in the said counties, under an imperative sense of duty, actuated solely by a desire to repress disorder, and to preserve the peace of the State, by virtue of the powers vested in him by the Constitution and laws, as Governor of North Carolina, did order the officers commanding said militia in the counties of Alamance and Caswell to arrest the said Josiah

Turner, Junior, if found within the limits of said last named counties, and not elsewhere. This respondent denies that he ordered the arrest of the said Josiah Turner, Junior, in the said county of Orange, and if the said Turner was arrested therein, as alleged and set forth in said third article, the said arrest was made contrary to the orders, and without the advice, procurement, knowledge or consent of this respondent. But this respondent admits, that it was reported to him by the officers commanding the said body of militia in the said counties of Alamance and Caswell, that the said Josiah Turner, Junior, was under arrest in the said county of Alamance, and that thereupon this respondent, as Governor of North Carolina, by virtue of the power vested in him by law, did order the detention of the said Josiah Turner, Junior, in the said counties of Alamance and Caswell, and not elsewhere, and this upon public considerations growing out of his executive duties for the reasons and causes herein set forth.

Further answering, this respondent denies the allegation in said third article set forth that he, Governor as aforesaid, did then and there commit a high misdemeanor in office, against the Constitution and laws of said State and the peace, interest, and dignity thereof,

#### ANSWER TO ARTICLE IV.

And for answer to said fourth article, this respondent says, that he abides by his answer to the said first and second articles in so far as the same are responsive to the allegations contained in said fourth article, and without here again repeating the same answer prays the same be taken as an answer to this fourth article, and as to any allegations in said fourth article not already answered in this respondent's answer to the said first and second articles this respondent denies the same.

Further answering, this respondent denies that he was guilty of a high misdemeanor in office against the Constitution and

of said State, and the peace, interests and dignity thereof as alleged in said fourth article.

#### ANSWER TO ARTICLE V.

And for answer to article fifth, this respondent says, that he abides by his answer to the first article in so far as the same is responsive to the allegations contained in said fifth article, and without here again repeating the same answer, prays the same to be taken as an answer to this fifth article, as fully as if here again set out at length; and as to the new allegations contained in said fifth article, this respondent answering says:

That he did not otherwise arm and equip as soldiers, a large number of men, nor any number of men, nor organize as an army a large number of men, nor any number of men, under the command of George W. Kirk, B. G. Burgen, H. C. Yates, or under the command of any other person or persons, and send the same into the county of Alamance, save as this respondent has set forth in his answer to the said first article, which he prays may be considered as here again repeated.

This respondent admits that he organized a body of militia according to the Constitution and laws of North Carolina, as set forth in his answer to the said first article, and did order the same into the county of Alamance, as in his answer to said first article set forth and declared, and not otherwise.

And this respondent further admits, that George W. Kirk, Colonel commanding the said body of militia in Alamance county, did, for good and sufficient cause, arrest and detain the said Adolphus G. Moore, named in said fifth article, and that the said arrest and detention was approved of by this respondent as Governor of North Carolina. Furthermore, this respondent admits that the said Adolphus G. Moore applied to the Honorable Richmond M. Pearson, Chief Justice of North Carolina, for the writ of *habeas corpus*, to the end set forth in said fifth article, and that the said Chief Justice caused the said writ to be issued and directed to the said George W. Kirk, commanding him to produce the

body of said Moore, at the time and place alleged in said fifth article, and this respondent further admits that the said writ was served on the said Kirk, and that the said Kirk made no return thereto and refused to obey the same, and that this failure on the part of said Kirk to make return to said writ and to produce the body of the said Moore in obedience thereto, was done by the order of this respondent as Governor of North Carolina. But this respondent denies that therein he acted contrary to law, and declares that he was impelled by the highest sense of public duty and by the conviction that the public safety required the detention of the said A. G. Moore, and the other parties under arrest in the said counties of Alamance and Caswell, and this respondent submits, as a part of his answer, his letter of July 19th, 1870, addressed to the Honorable Richmond M. Pearson, Chief Justice of the Supreme Court of North Carolina, of which the following is a copy:

“EXECUTIVE OFFICE,  
Raleigh, July 1, 1870.

*To the Hon. RICHMOND<sup>Y</sup> M. PEARSON,  
Chief Justice of North Carolina:*

“SIR:—Your communication of yesterday concerning the arrests made by Col. Geo. W. Kirk, together with the enclosed, is received.

“I respectfully reply:—That Col. Geo. W. Kirk made the arrests, and now detains the prisoners named by my order. He was instructed firmly but respectfully to decline to deliver the prisoners. No one goes before me in respect for the civil law, or for those whose duty it is to enforce it, but the condition of Alamance county, and some other parts of the State, has been and is such that, though reluctant to use the strong powers vested in me by law, I have been forced to declare them in a state of insurrection.

“For months past there has been maturing in these localities under the guidance of bad and disloyal men a dangerous secret

insurrection. I have invoked public opinion to aid me in suppressing this treason ! I have issued proclamation after proclamation to the people of the State to break up these unlawful combinations ! I have brought to bear every civil power to restore peace and order, but all in vain ! The Constitution and laws of the United States and of this State are set at naught ; the civil courts are no longer a protection to life, liberty and property : assassination and outrage go unpunished, and the civil magistrates are intimidated and are afraid to perform their functions.

" To the majority of the people of these sections the approach of night is like the entrance into the valley of the shadow of death ; the men dare not sleep beneath their roofs at night, but abandoning their wives and little ones, wander in the woods until day.

" The civil government was crumbling around me. I determined to nip this new treason in the bud.

" By virtue of the power vested in me by the Constitution and laws, and by that inherent right of self-preservation which belongs to all governments, I have proclaimed the county of Alamance in a state of insurrection. Col. Geo. W. Kirk is commanding the military forces in that county, made the arrests referred to in the writ of *habeas corpus*, and now detains the prisoners by my order.

" At this time I am satisfied that the public interests require that these military prisoners shall not be delivered up to the civil power.

" I devoutly hope that the time may be short when the restoration of peace and order may release Alamance county from the presence of military force and the enforcement of military law. When that time shall arrive I shall promptly restore the civil power.

W. W. HOLDEN, *Governor.*"

This respondent, as Governor of North Carolina, and by virtue of the powers vested in him by the Constitution and laws of

the said State, actuated by the most patriotic motives, and in the exercise of his best judgment, had declared the counties of Alamance and Caswell to be in a state of insurrection, in the manner and for the causes set forth in his answer to the first article. The said insurrection had not been suppressed, and it was the duty of this respondent, as Governor of North Carolina, under the sanctity of his official oath, to take all lawful ways and means to suppress the same. This respondent verily believed that the state of affairs existing in the counties of Alamance and Caswell, and in various other counties throughout the State, if not remedied, would precipitate another collision between the people of this State and the Government of United States, and this respondent could see no other means of remedying the said state of affairs in the said counties of Alamance and Caswell, and in various other counties throughout the State, than those he had adopted, as set forth in his answer to said first article, and in the arrest and detention of those men of whom the said Moore, was one whose evil influence, counsel and example had precipitated the said counties into insurrection. This respondent believed that the safety of the State would be imperilled by yielding obedience at that time to the exigency of the said writ, in this and in the other cases where parties had been arrested and detained in the said counties of Alamance and Caswell ; and for this reason he felt it to be his imperative duty, as Governor of North Carolina, to withhold obedience in the said case. And herein this respondent believed, and does still believe, and now submits and insists that he was sustained by the opinion of the Honorable the Chief Justice aforesaid, rendered in the application of the said A. G. Moore for the said writ of *habeas corpus*. By every principle of fair construction, the said Chief Justice holds, in his said opinion, that "the safety of the State is the supreme law," and that this respondent as Governor of North Carolina, was the sole Judge whether the exigency had arisen, which, upon said principle, would justify this respondent in withholding obedience to the said writ. It was upon this principle

that this respondent acted, and he submits and desires to be taken as a part of this his answer, his letter of July 26th, 1870, addressed to the Honorable the Chief Justice aforesaid, of which the following is a copy:

“EXECUTIVE DEPARTMENT,  
Raleigh, July 26th, 1870.

“*To the Hon. R. M. Pearson,*  
*Chief Justice of the Supreme Court of N. C.:*

“SIR: I have had the honor to receive, by the hands of the Marshall of the Supreme Court, a copy of your opinion in the matter of A. G. Moore; and the Marshall has informed me of the writ in his hands for the body of said Moore, now in the custody of my subordinate officer, Col. George W. Kirk.

“I have declared the counties of Alamance and Caswell in a state of insurrection, and have taken military possession of them. This your Honor admits I had the power to do ‘under the Constitution and laws.’ And not only this, ‘but to do *all* things necessary to suppress the insurrection,’ including the power to arrest all *suspected* persons’ in the above mentioned counties.

“Your Honor has thought proper also to declare that the citizens of the counties of Alamance and Caswell are *insurgents*, as the result of the constitutional and lawful action of the Executive, and that therefore, you will not issue the writ for the production of the body of Moore to any of the men of the said counties; that ‘the *posse comitatus* must come from the county where the writ is to be executed,’ and that any other means would be illegal.

“I have official and reliable information that in the counties above named, during the last twelve months, not less than one hundred persons, ‘in the peace of God and the State,’ have been taken from their homes and scourged, mainly, if not entirely, on account of their political opinions; that eight mur-

ders have been committed, including that of a State Senator, on the same account; that another State Senator has been compelled from fear for his life to make his escape to a distant State. I have reason to believe that the governments of the said counties have been mainly if not entirely in the hands of men who belong to the Ku Klux Klan, whose members have perpetrated the atrocities referred to; and that the county governments have not merely omitted to ferret out and bring to justice those of this Klan who have thus violated the law, but that they have actually shielded them from arrest and punishment. The State judicial power in the said counties, though in the hands of energetic, learned and upright men, has not been able to bring criminals to justice: indeed, it is my opinion,-based on facts that have come to my knowledge, that the life of the Judge whose duty it is to ride the circuit to which the said counties belong, has not been safe, on account of the hatred entertained towards him by the Klan referred to, because of his wish and purpose to bring said criminals to justice. For be it known to your Honor that there is a wide-spread and formidable secret organization in this State, partly political and partly social in its objects; that this organization is known, first, as '*The Constitutional Union Guards*';—secondly, as '*The White Brotherhood*';—thirdly, as '*The Invisible Empire*';—that the members of this organization are united by oaths which ignore or repudiate the ordinary oaths or obligations that rest upon all other citizens to respect the laws and to uphold the government; that these oaths inculcate hatred by the white against the colored people of the State; that the members of this Klan are irreconcilably hostile to the great principal of political and civil equality on which the government of this State has been reconstructed; that these Klans meet in secret, in disguise, with arms, in uniform of a certain kind intended to conceal their persons and their horses, and to terrify those whom they assault or among whom they move; that they hold their camps in secret places and decree judgment against their peaceable fellow-citizens;

from mere intimidation to scourgings, mutilations and murder, and that certain persons of the Klan are deputed to execute these judgments; that when the members of this Klan are arrested for violations of law, it is most difficult to obtain bills of indictment against them, and still more difficult to convict them, first, because some of the members or their sympathizers are almost always on the grand and petit juries, and secondly, because witnesses who are members or sympathizers unblushingly commit perjury to screen their confederates and associates in crime; that this Klan, thus constituted and having in view the objects referred to, is very powerful in at least twenty-five counties of the State, and has had absolute control for the last twelve months of the counties of Alamance and Caswell.

"Under these circumstances I would have been recreant to duty and faithless to my oath, if I had not exercised the power in the several counties which your Honor has been pleased to say I have exercised Constitutionally and lawfully; especially as, since October, 1868, I have repeatedly, by proclamations and by letters, invoked public opinion to repress these evils, and warned criminals and offenders against the laws of the fate that must in the end overtake them, if, under the auspices of the Klan referred to, they should persist in their course.

"I beg to assure your Honor that no one subscribes more thoroughly than I do to the great principles of *habeas corpus* and trial by jury. Except in extreme cases, in which beyond all question 'the safety of the State is the supreme law,' these privileges of *habeas corpus* and trial by jury should be maintained.

"I have already declared that, in my judgment, your Honor and all the other civil and judicial authorities are unable *at this time* to deal with the insurgents. The civil and the military are alike Constitutional powers—the civil to protect life and property when it can, and the military only when the former has failed. As the Chief Executive I seek to restore, not to subvert, the judicial power. Your Honor has done your duty, and in perfect harmony with you I seek to do mine.

"It is not I nor the military power that has supplanted the civil authority ; that has been done by the insurrection in the counties referred to. I do not see how I can restore the civil authority until I "suppress the insurrection," which your Honor declares I have the power to do; and I do not see how I can surrender the insurgents to the civil authority until that authority is restored. It would be mockery in me to declare that the civil authority was unable to protect the citizens against the insurgents, and then turn the insurgents over to the civil authority. My oath to support the Constitution makes it imperative on me to "suppress the insurrection" and restore the civil authority in the counties referred to, and this I must do. In doing this I renew to your Honor expressions of my profound respect for the civil authority, and my earnest wish that this authority may soon be restored to every county and neighborhood in the State.

I have the honor to be, with great respect,

Your obedient servant,

W. W. HOLDEN, *Governor.*"

Further answering, this respondent declares that it was his purpose to detain the said Adolphus G. Moore, and the other persons so arrested in the said counties of Alamance and Caswell, only until such time as he might with safety to the State surrender them to the civil authorities, and as soon as in his judgment the said time had arrived, he so surrendered them, and this respondent submits, as a part of this his answer, his letter of August 15th, 1870, addressed to the Honorable the Chief Justice aforesaid, of which the following is a copy:

“STATE OF NORTH CAROLINA,  
EXECUTIVE DEPARTMENT,  
Raleigh, Aug. 15th, 1870.

“To the Hon. R. M. PEARSON,  
*Chief Justice Supreme Court of N. C.:*

“DEAR SIR: In my answer to the notices served upon me by the Marshall of the Supreme Court, in the matter of Adolphus G. Moore and others, *ex parte*, I stated to your Honor that at that time the public interests forbade me to permit Col. George W. Kirk to bring before your Honor the said parties; at the same time I assured your Honor that as soon as the safety of the State should justify it, I would cheerfully restore the civil power, and cause the said parties to be brought before you, together with the cause of their caption and detention.

“That time has arrived, and I have ordered Col. George W. Kirk to obey the writs of *habeas corpus* issued by your Honor. As the number of prisoners and witnesses is considerable, I would suggest to your Honor that it would be more convenient to make return to the writs at the capitol in Raleigh. Col. Kirk is prepared to make such return as soon as your Honor shall arrive in Raleigh.

With great respect,

Your obedient servant,

W. W. HOLDEN,

*Governor.”*

And so this respondent denies that by reason of any new matter alleged in the said fifth article, he did commit high crimes and misdemeanors in office against the constitution and laws of said State, and the peace, dignity and interests thereof.

## ANSWER TO ARTICLE VI.

And for answer to said sixth article this respondent says that he abides by his answer to said first, second, fourth and fifth articles in so far as the same are responsive to the allegations contained in said sixth article, and without here again repeating the same answer, prays the same to be taken as an answer to this sixth article as fully as if here again set out at length ; and as to the new allegation contained in said sixth article this respondent answering, says : That this respondent admits the arrest and detention of the persons named in said sixth article in manner and form as he hath heretofore admitted the same, and not otherwise. This respondent further admits that the said named persons, and each of them, sued out writs of *habeas corpus* before the Honorable Richmond M. Pearson, Chief Justice of the Supreme Court of North Carolina, returnable at the time and place stated and set forth in the said sixth article ; that the said writs were duly served upon George W. Kirk, as in said sixth article stated ; that the said George W. Kirk refused to produce the said named persons in obedience to the said writs, but continued to detain the said persons, and this under the orders and with the approval of this respondent, as Governor of North Carolina, as in said sixth article stated and set forth. Further answering, this respondent says that he abides by his answer to the fifth article, and without here again repeating the same answer, prays that the same may be taken as an answer to this sixth article, and that each and every part thereof may be taken as applied to the persons in said sixth article named, and to each of them as fully, and in like manner, as the same is applied to Adolphus G. Moore in said fifth article named and specified.

And so this respondent denies, that by reason of any new allegations in this sixth article contained, he did commit high crimes and misdemeanors in office, against the Constitution of said State, and the peace, dignity and interests thereof.

## ANSWER TO ARTICLE VII.

And for answer to said seventh article, this respondent says he abides by his answer to said first, second, third and fourth articles in so far as the same are responsive to the allegations contained in said seventh article, and without here again repeating the same, prays the same be taken as an answer to this seventh article as fully as if here again set out at length; and as to the new allegation contained in said seventh article, that this respondent did "recruit and call together from this State and the State of Tennessee a large number of men, to wit: Five hundred men and more, many of them of the most reckless, desperate, ruffianly and lawless characters, and did then and there organize, arm and equip them as an army of soldiers, and place the same under the chief command of a notorious desperado from the State of Tennessee, by the name of George W. Kirk, having falsely proclaimed the counties of Alamance and Caswell in said State in a state of insurrection, and did send large numbers of such armed desperate men into said counties, under the immediate command of the said George W. Kirk and two other desperados from the State of Tennessee, to wit: One B. G. Burgen and one H. C. Yates, and did there and then without any warrant or authority, seize, hold, imprison and deprive of their liberty for a long time, to wit: For the time of twenty days and more, many of the peaceable and law-abiding citizens of said counties, to wit: John Kerr, Samuel P. Hill, —— Scott, John R. Ireland and many others, and seize, hold, imprison and deprive of their liberty, and hung by the neck William Patton, Lucien H. Murray and others, and did thrust into a loathsome dungeon Josiah Turner, Junior, and F. A. Wiley," this respondent denies the same and declares the facts to be as hereinbefore stated and set forth in his answer to the first, second, third and fourth articles, and especially that the body of militia sent by him into the counties of Alamance and Caswell, as hereinbefore set forth, were organized according

to the provisions of the act of the General Assembly of the State of North Carolina, entitled "An act to organize a militia of North Carolina," ratified the 17th day of August, A. D. 1868. This respondent denies that the men composing said volunteer militia were many of them of the most reckless, desperate, ruffianly and lawless characters from the State of Tennessee ; on the contrary this respondent declares that the said men were citizens of North Carolina at and immediately before the organization of said militia, and were of good deportment and behavior, and were received and organized strictly according to the provisions of said act, and not otherwise ; and if any of them at the time of said organization were citizens of the State of Tennessee the same was unknown to this respondent. Further answering, this respondent says that the said George W. Kirk, B. G. Burgen and H. C. Yates, officers in command of said volunteer militia, were at the time of the organization of the said militia, and immediately before, citizens of North Carolina, and were duly commissioned and sworn. But this respondent submits, and insists, that, in and by the provisions of the aforesaid act, he was at liberty to receive and enroll, in the said volunteer militia, any citizen of the United States. And as to the seizing, holding, imprisoning and depriving of their liberty, and maltreating the persons named in said seventh article, this respondent denies the same, and has nothing further to answer than he has already answered.

And as to the allegation in said seventh article contained, that this respondent, "to maintain, support and aid the lawless armed men so organized, armed and equipped, did, under color of his said office from time to time during the said months of June, July and August, without any lawful authority, make his warrant upon David A. Jenkins, Treasurer of the State, for large sums of money, to wit: For the sum of seventy thousand dollars and more, and cause and procure the said David A. Jenkins, the Treasurer of the State, to recognize such unlawful warrant, and pay out of the Treasury such said

large sums of money to the agent or paymaster of the said William W. Holden, Governor as aforesaid, for the unlawful uses and purposes aforesaid," this respondent denies the same in manner and form as therein set forth.

Further answering, this respondent denies that he did, then and there, as alleged in said seventh article, commit a high misdemeanor in office, in violation of the Constitution and laws of this State, and of the peace, interests and dignity thereof.

#### ANSWER TO ARTICLE VIII.

And for answer to the said eight article, this respondent abides by his answer to said first, second, fourth, fifth, sixth and seventh articles, in so far as the same are responsive to the allegations contained in the said eight article, and without here again repeating the same answers, prays the same to be taken as an answer to this eighth article as fully as if here again set out at length. And as to the new allegation contained in the said eighth article, "that the said William W. Holden, Governor of the said State, unmindful of the high duties of his said office, and the obligations of his solemn oath of office, and contriving and intending, and with a view and for the purpose of supporting and maintaining an armed military force in said State, which he had then and there recruited, organized and formed for illegal purposes, without the sanction of the Constitution and laws of the said State, but in contravention of the same, did from time to time, in the months of June, July and August, in the year of our Lord, one thousand eight hundred and seventy, under color of his said office, in said State, without the sanction of the Constitution and laws of said State, and in violation of the same, make his warrants as such Governor upon the Treasury of the said State, for large sums of money, to-wit: For the sum of eighty thousand (\$80,000) dollars and more, to be used for the unlawful purpose aforesaid; that the said William W. Holden, Governor as aforesaid, under color of his said office, then and

there persuaded, commanded, incited and procured David A. Jenkins, Treasurer of said State, to recognize such and said unlawful warrants on the Treasury of said State, and to deliver such and said sums of money to such agents of the said William W. Holden, Governor as aforesaid, as he the said William W. Holden, Governor as aforesaid, might from time to time designate and appoint ; that in pursuance of such warrants and orders of the said William W. Holden, Governor as aforesaid, the said David A. Jenkins, Treasurer as aforesaid, delivered to one A. D. Jenkins, called the paymaster, appointed by the said William W. Holden, Governor as aforesaid, for such purpose, large sums of money from said Treasury, to wit : The sum of forty thousand dollars or more," this respondent denies the same, in manner and form as therein set forth ; and as to the further allegation in said eighth article, that "in the month of August, in the year of our Lord one thousand eight hundred and seventy, one Richard M. Allison, a citizen of the county of Iredell, in said State, brought his suit in the Superior Court of the last named county, in his own behalf, and in the behalf of all the tax payers of said State, praying that a Writ of Injunction might then and there be granted, and issued according to law, restraining the said David A. Jenkins, Treasurer as aforesaid, from delivering any sum or sums of money to the said William W. Holden, Governor as aforesaid, or any other persons, in obedience to such orders and for such purposes, and also restraining the said A. D. Jenkins, as such paymaster, or in any other respect or capacity from disbursing or disposing of said sum of money so in his said hands, or any part thereof, for the purposes thereof; that the Honorable Anderson Mitchell, Judge of said Superior Court, then and there granted the Writ of Injunction so prayed for, enjoining and forbidding the said David A. Jenkins, Treasurer as aforesaid, from delivering any money from said Treasury, in obedience to any such warrant or order, so made by the said William W. Holden, Governor as aforesaid, and enjoining and forbidding the said A. D. Jenkins, as such paymaster or agent,

from using or disbursing the said money or any part of it, so in his hands, to or for the use of said armed body of men for any of the purposes aforesaid; that the said David a Jenkins, Treasurer, and the said A. D. Jenkins, were each duly served with said Writ of Injunction," this respondent says that he has not sufficient information to answer whether the same be true or false, in manner and form as therein set forth, and insists upon the proof thereof.

And as to the additional allegation in said eighth article that "the said William W. Holden, Governor as aforesaid, wickedly intending to suspend and subvert the laws of said State, and to defy and disregard the lawful authority of said Court, did afterwards, to wit: After the month last aforesaid, persuade, incite, order, procure and command the said A. D. Jenkins to defy and disregard the said Writ of Injunction, and to deliver the said money so in his custody to another agent of the said William W. Holden, Governor as aforesaid, to be used for the unlawful purposes aforesaid; that the said A. D. Jenkins, in obedience to such last mentioned order, command and procurement of the said William W. Holden, Governor as aforesaid, and in disregard of such writ of injunction and the lawful authority of said Judge, did deliver the said money so in his hands to another agent of the said William W. Holden, Governor as aforesaid, to wit: To one Richard T. Berry, to be used for the unlawful purpose aforesaid, and the said William W. Holden, Governor as aforesaid, did then and there, in the way and manner, and by the means and for the purpose aforesaid, procure, order and command the said A. D. Jenkins so to disregard and disobey the said writ of injunction, and the lawful authority of said Judge, and did then and there, and in the way and manner and by the means and for the unlawful purpose aforesaid, defy, disregard, ignore, contravene, suspend and defeat the lawful purpose and effect of the Writ of Injunction so granted and issued by the said Judge; and thereupon and thereafter the said William W. Holden, Governor as aforesaid, the said sum of public money thus transferred as

aforesaid to the hands of the said Richard T. Berry, did order and cause to be paid out and disbursed by him, the said Richard T. Berry, to, for and about the illegal purposes aforesaid, to wit: The payment of the expenses in keeping on foot, sustaining and maintaining the said illegal military force as aforesaid," this respondent denies the same.

And this respondent denies that he was guilty of a high misdemeanor in his said office of Governor, in violation of his oath of office, and in subversion of the laws in said State, and the peace, interests and dignity thereof, as alleged in said eighth article.

And this respondent, in submitting to this honorable court this his answer to the Articles of Impeachment exhibited against him, respectfully reserves leave to amend and add to the same from time to time, as may become necessary or proper, and when and as such necessity and propriety shall appear.

W. W. HOLDEN.

R. C. BADGER,  
J. M. McCORKLE,  
NATHANIEL BOYDEN,  
EDW. CONIGLAND,  
W. N. H. SMITH,

*Of Counsel.*





3

卷之三

# PROCEEDINGS

IN THE

# TRIAL OF IMPEACHMENT

OF

## WILLIAM W. HOLDEN.

GOVERNOR OF NORTH CAROLINA.

### FIRST DAY.

SENATE CHAMBER, December 23, 1870.

The hour of 12, M., having arrived, the Chief Justice, accompanied by Messrs. Jones and Lehman, entered the Senate Chamber and took his seat as presiding officer.

Upon assuming the chair, the Chief Justice said :

SENATORS : Having been notified by the Senator from Yadkin and Surry, I am present to take part in forming a court for the trial of the Governor of the State. There is one question which has been called to my attention. I noticed that in the trial of the President of the United States, the Chief Justice of the United States thought he must take an oath, because the Constitution of the United States does not make that a part of his official duty. The view that I take of it is that, inasmuch as by the Constitution it is made a part of my official duty to take this post, I think the oath I have already taken is enough. Therefore I shall not take another, unless Senators

think it proper. I have consulted with some members, and they agree with me in this view. I suppose that it is not necessary for me to mention that I intend, of course, to do my duty impartially and according to law, and that would be the substance of the oath.

The Chief Justice then ordered a call of the Senate, and 36 Senators responded to their names, and were duly sworn by the Chief Justice, viz: Messrs. Adams, Allen, Bellamy, Brogden, Cook, Council, Cowles, Crowell, Currie, Eppes, Flemming, Gilmer, Graham, Hawkins, Hyman, Jones, King, Lassiter, Ledbetter, Lehman, Mauney, McClammy, Merrimon, Moore, Morehead, Murphy, Norment, Olds, Price, Robbins of Davidson, Robbins, of Rowan, Skinner, Troy, Warren, Whitesides and Worth.

The Chief Justice then said: The oath having been administered, I announce that the Court of Impeachment is organized for business.

On motion of Mr. Graham, it was ordered that the rules adopted by the Senate for the government of the impeachment trial be retained for the use of this body until further orders.

On motion of Mr. Graham, it was ordered that the Principal Clerk of the Senate notify the House that the Senate is organized for the trial of impeachment of William W. Holden, Governor of North Carolina, and are ready to receive the Managers of Impeachment at its bar, which was accordingly done.

The Doorkeeper having made the proclamation provided in the rules adopted by the Court, the Clerk and Doorkeeper were sworn in.

On motion it was ordered that the Doorkeeper arrange seats in front of the bar for the accommodation of the Managers from the House.

The Chief Justice stated that the Doorkeeper had delivered the message to the House, and the return was that the Managers would appear in the Senate Chamber at 1 o'clock.

On motion of Mr. Robbins, of Rowan, it was ordered that the Court take a recess until five minutes to one.

The hour of one having arrived, the Committee announced the return of the Chief Justice.

The Doorkeeper announced the arrival of the Board of Managers from the House. The Chief Justice invited them forward.

Mr. Sparrow, (Chairman of the Board of Managers,) said :

Mr. Chief Justice, we are requested by the House of Representatives as its Managers, to demand that the Senate *take process* against William W. Holden that he may answer at the bar of the Senate upon the Articles of Impeachment heretofore preferred by the House of Representatives, through its Managers before the Senate.

On motion of Mr. Lehman, it was ordered that a summons be issued to William W. Holden, Governor of the State of North Carolina, to appear and answer the Articles of Impeachment heretofore exhibited against him, and the said summons be made returnable forthwith.

On motion of Mr. Graham, it was ordered that the following form of summons be adopted, to wit:

THE STATE OF NORTH CAROLINA.

*The Senate of North Carolina,*

*To William W. Holden, Greeting:*

WHEREAS, The House of Representatives of the State of North Carolina, did, on the 20th day of December, 1870, exhibit to the Senate Articles of Impeachment against you, the said William W. Holden, which said Articles appended to this summons, demand that you, the said William W. Holden, should be put to answer the accusations as set forth in said Articles, and that such proceedings, examinations, trials and judgements might be therefore had as are agreeable to law and

ustice. You, the said William W. Holden are, therefore, hereby summoned to appear forthwith before the Senate of North Carolina, at their Chamber, in the City of Raleigh, then and there to answer to the said Articles of Impeachment, and there to abide by, obey, and perform such orders, directions, and judgments, as the Senate of North Carolina shall make in the premises, according to the Constitution and laws of North Carolina. Hereof you are not to fail.

Witness R. M. Pearson, Chief Justice and Presiding Officer of the said Senate, at the City of Raleigh, this 23d day of December, 1870.

(Signed,) .

R. M. PEARSON,  
*Chief Justice S. C.*

THE STATE OF NORTH CAROLINA.

*The Senate of North Carolina,*

*To Joseph J. Roberson, Greeting:*

You are hereby commanded to deliver and leave with William W. Holden, if convenient, a true and attested copy of the within writ of summons, together with a like copy of this precept, and let it be done forthwith.

Fail not and make return of this writ of summons and precept, with your proceedings thereon endorsed, before the appearance day mentioned in said writ of summons.

Witness, R. M. Pearson, Chief Justice and Presiding Officer of the Senate, at the City of Raleigh, this 23d day of December, 1870.

(Signed,) .

R. M. PEARSON,  
*Chief Justice S. C.*

RETURN.

The foregoing writ of summons has been duly served upon William W. Holden, Governor of the State of North Carolina,

by delivering to him a copy of the summons, the 23d day of December, 1870.

(Signed,)

J. J. ROBERSON,  
*Doorkeeper and Sergeant-at-Arms.*

The Chief Justice announced that the Doorkeeper had served the summons, and that the Governor would appear before the Court by counsel.

Mr. R. C. Badger, counsel for the Governor, appeared before the bar and read the following reply to the summons, to wit:

Mr. Chief Justice: I, William W. Holden, Governor of North Carolina, having been served with a summons to appear before this Honorable Court, sitting as a Court of Impeachment to answer certain articles of impeachment found and presented against me by the honorable the House of Representatives of the State of North Carolina, do hereby enter my appearance by my counsel, Richard C. Badger, who has my warrant and authority therefor, and who is instructed by me to ask of this Honorable Court a reasonable time for the preparation of my answer to said articles. The time has been so short since my impeachment that I have not yet received replies from other members of the bar to whom I have written, requesting them to appear as my counsel in this Honorable Court. I therefore respectfully ask that they may be hereafter added to the counsel already employed by me. After a careful examination of the articles of impeachment and consultation with my counsel, I am satisfied that at least thirty days will be necessary for the preparation of my answer, and I respectfully ask that it be allowed.

(Signed)

W. W. HOLDEN.

Richard C. Badger, of counsel for the Respondent, moves the Court for the allowance of thirty days for the preparation of the answer to the Articles of Impeachment, and in support of the motion, makes the following professional statement:

The articles are eight in number, involving many question<sup>s</sup>

of law and a very great number of facts. They were exhibited in the Senate on Monday, the 19th day of December, instant, and their contents only brought to the knowledge of the Respondent on the day following, when they appeared in one of the daily newspapers published in the city of Raleigh.

The Respondent, on account of the shortness of time, has not yet had replies from the other counsel to whom he has applied to appear for him jointly with myself, and this season of the year at which, according to the customs of this country, all persons make their arrangements for the incoming year, will cause the loss of at least seven of the days asked for.

(Signed)

R. C. BADGER,  
*Counsel for the Respondent.*

Chief Justice: The Managers have heard the motion; what disposition will they make of it?

Mr. Sparrow said it was the desire of the Managers that the Respondent should have full time to prepare his reply to the charges presented against him, and he was instructed to say the time asked for would be agreeable to the Board of Managers.

The Chief Justice said that if no objection was made by the Court, the motion would be considered granted.

Objection was made.

Mr. Sparrow said the Board of Managers desired to know if the Respondent would ask for a longer time after the expiration of the thirty days asked.

Mr. Badger assured the Court that the Governor would throw no obstacle in the way to delay the trial, but simply desired the time necessary to complete his reply.

On motion of Mr. Graham it was ordered that the Respondent file his answer to the Articles of Impeachment on or before the 23rd day of January, 1871, and that the Managers of Impeachment file their replication thereto within six days thereafter, and that the matter stand for trial on the 30th day of January, 1871.

The Chief Justice gave notice that the Court would stand adjourned until the 23d of January.

SECOND DAY.

SENATE CHAMBER, January 23d, 1871.

At 12 M., pursuant to adjournment, the Chief Justice having taken the chair, the Senate proceeded to the consideration of the Articles of Impeachment exhibited against William W. Holden, Governor of North Carolina. Proclamation was made in due form by the Doorkeeper.

The following senators were then duly qualified by the Chief Justice, to wit: Messrs. Albright, Barnett, Battle, Beasley, Brown, Dargan, Flythe, Graham, of Alamance, Latham, Linney, Love, Speed and Waddell.

On motion of Mr. Graham, of Orange, it was ordered that the additional rules for the government of the Impeachment trial heretofore adopted by the Senate, be the rules of this body until further orders.

On motion of Mr. Graham, of Orange, it was ordered that the Principal Clerk of the Senate notify the Managers on the part of the House of Representatives, that the Senate is ready to proceed with the trial of William W. Holden, Governor of North Carolina, and that seats are provided for the Managers and Counsel.

Mr. Sparrow, on behalf of the Managers, announced that Messrs. William A. Graham, Thomas Bragg and A. S. Merrimon were associated with the Managers as Counsel.

Mr. Badger in behalf of the respondent announced that Messrs J. M. McCorkle, Nathaniel Beyden, William N. H. Smith and Edward Conigland were associated with himself as Counsel for Respondent.

On motion of Mr. Graham, of Orange, it was ordered that the Doorkeeper inform the Respondent, William W. Holden, and his counsel, that the Senate is ready to proceed with the trial of the Impeachment.

The answer of the Respondent, William W. Holden, Governor

of North Carolina, to the Articles of Impeachment exhibited against him was then read.

On motion of Mr. Graham, of Orange, it was ordered that the answer of the Respondent be received and filed, and that a copy be furnished the House of Representatives and to the Managers of Impeachment.

Mr. Graham, of Orange, moved that it be ordered that one hundred copies of the proceedings of the Impeachment Trial be printed on every day, and a copy laid on the desk of each member, and furnished to the parties and their counsel, on the succeeding day.

Upon this motion, Mr. Gilmer demanded the yeas and nays. The Senate agreed thereto, and the motion prevailed—yeas 37, nays 11.

Those who voted in the affirmative are

Messrs. Adams, Albright, Allen, Barnett, Battle, Beasley, Bellamy, Brogden, Brown, Cook, Council, Crowell, Currie, Dargan, Eppes, Flemming, Flythe, Graham of Alamance, Graham of Orange, Hymau, Jones, Lassiter, Latham, Ledbetter, Lehman, Mauney, McClammy, Moore, Murphy, Olds, Price, Robbins of Davidson, Robbins of Rowan, Skinner, Speed and Waddell—37.

Those who voted in the negative are,

Messrs. Cowles, Gilmer, King, Linney, Love, Merrimon, Morehead, Norment, Troy, Whiteside and Worth—11.

On motion of Mr. Flemming, it was ordered that when the Court adjourns, it will adjourn until to-morrow at 12 o'clock.

On motion of Mr. Graham, of Orange, it was ordered that the Clerk of the Senate have a sufficient number of blank subpoenas printed for the use of parties and their counsel during the trial.

On motion of Mr. Gilmer the Court adjourned.

## THIRD DAY.

SENATE CHAMBER, January 24th, 1871.

At 12 M., the Chief Justice having taken the chair, the Senate, pursuant to adjournment, proceeded to the consideration of the Articles of Impeachment exhibited against William W. Holden, Governor of North Carolina.

Proclamation was made in due form by the Doorkeeper.

Mr. McCotter, Senator from the 8th District, appeared and was duly qualified by the Chief Justice.

Mr. Gilmer moved the adoption of the following:

*Ordered*, That after the proclamation made on each day, the Doorkeeper notify the Managers on the part of the House of Representatives and Counsel, and the Respondent and his Counsel, that the Senate is ready to proceed with the trial of the Impeachment.

Mr. Jones moved to strike out the words "and the Respondent and his Counsel."

Mr. Robbins, of Rowan, was proceeding to discuss the question, when Mr. Graham, of Orange, raised the point of order that under the XVIII Rule for the government of the Impeachment trial, no debate could be had upon the adoption of any order or decision except by the consent of the Senate.

The Chief Justice decided the point of order to be well taken, and submitted to the Senate the question whether debate should be allowed, and it was decided in the affirmative.

The motion of Mr. Jones to strike out did not prevail, and the Senate refused to make the order proposed by Mr. Gilmer.

The Journal of the proceedings of the Senate sitting on yesterday as Court of Impeachment was read and approved.

Mr. Sparrow in behalf of the Managers on the part of the House of Representatives, presented the Replication adopted

by the House of Representatives to the answer of the Respondent which was read.

*REPLICATION by the House of Representatives of the State of North Carolina, to the Answer of William W. Holden, Governor of the State of North Carolina, to the Articles of Impeachment Exhibited Against Him by the House of Representatives.*

The House of Representatives of the State of North Carolina, have considered the several answers of William W. Holden, Governor of North Carolina, to the several articles of impeachment against him, by them exhibited in the name of themselves and all the people of said State, and reserving to themselves all advantage of exception to the insufficiency and irrelevancy of his answer to each and all of the several articles of impeachment, exhibited against said William W. Holden, Governor of said State, do deny each and every everment in said several answers, or either of them, which denies or traverses the acts, intents, crimes, misdemeanors, offences, or misconduct charged against said William W. Holden in said Articles of Impeachment or either of them, and, for replication to said answer, do say that said William W. Holden, Governor of said State, is guilty of high crimes, misdemeanors and offences mentioned in said articles, and that the House of Representatives are ready to prove the same.

Passed House of Representatives January 24th, 1871.

THOS. J. JARVIS,

*Speaker of the House of Representatives.*

Attest:

W. W. GAITHER, Clerk.

On motion of Mr. Graham, of Orange, it was ordered that the Replication be received and filed, and an authenticated copy be furnished to the Counsel of the Respondent.

Mr. Lehman moved the adoption of the following:

*Ordered*, That the Senate will commence the trial of the Governor upon the Articles of Impeachment exhibited against him, on Monday, the 6th day of February, 1871, and proceed therein with all convenient dispatch, under the rules of the Senate sitting upon the trial of impeachment.

Mr. Robbins, of Rowan, moved the adoption of the following as a substitute for the order proposed by Mr. Lehman :

*Ordered*, That the Senate, adhering to the order heretofore adopted, will proceed with the trial in the Senate Chamber on Monday, the 30th of January, 1871, and from day to day, unless otherwise ordered on reason shown.

The substitute was adopted by the following vote—yeas 25, nays 22 :

Those who voted in the affirmative are :

YEAS—Messrs. Adams, Albright, Battle, Brown, Cook, Council, Crowell, Flemming, Gilmer, Graham of Alamance, Graham of Orange, Jones, Latham, Linney, Mauney, Merrimon, Morehead, Robbins of Davidson, Robbins of Rowan, Skinner, Speed, Troy, Waddell, Whiteside and Worth—25.

Those who voted in the negative are :

NAYS—Messrs. Barnett, Beasley, Bellamy, Brogden, Cowles, Currie, Dargan, Eppes, Flythe, Hawkins, Hyman, King, Lassiter, Ledbetter, Lehman, Love, McCotter, Moore, Murphy, Nornment, Olds and Price—22.

The order as amended was then made.

Mr. Nornment moved the adoption of the following :

*Ordered*, That the Managers on the part of the House of Representatives, together with their counsel, and also the respondent and counsel be requested to take notice of the sitting of the Court of Impeachment, and request their attendance accordingly.

Mr. Graham offered as a substitute therefor the following:

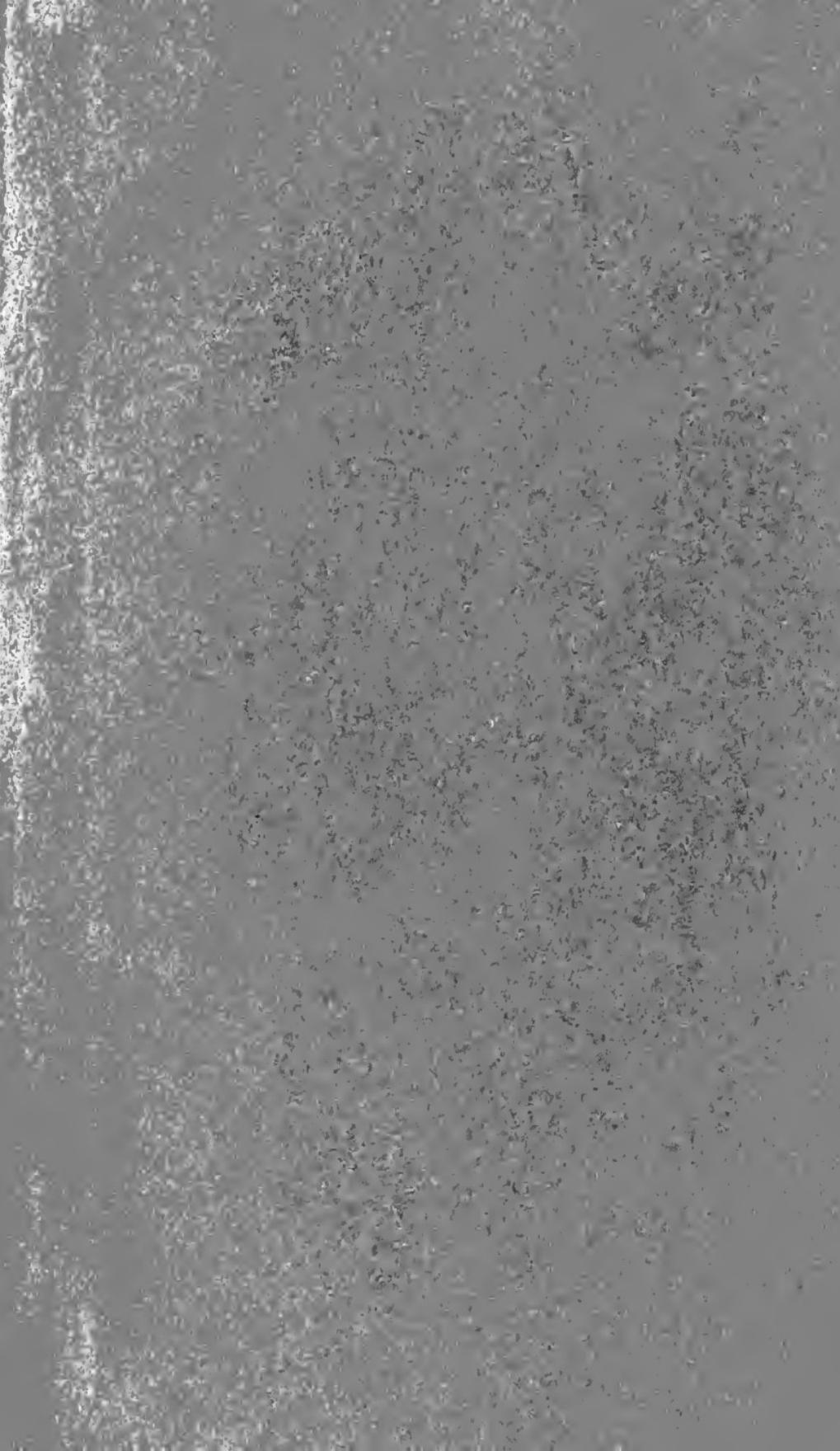
*Ordered,* That after proclamation is made on each day the Doorkeeper notify the Managers on the part of the House of Representatives and Counsel, and the Respondent and his Counsel, that the Senate is ready to proceed with the trial of Impeachment.

The substitute was rejected, and the order as proposed by Mr. Norment was made.

Mr. Graham, of Orange, called the attention of the Senate to the 9th and 10th sections of an act of the General Assembly, ratified the 10th day of April, 1869, Proceedings upon Impeachment, and asked whether or not, in the opinion of the Chief Justice, it was necessary for Senators to take any further oath before proceeding with the trial of the impeachment of Governor William W. Holden.

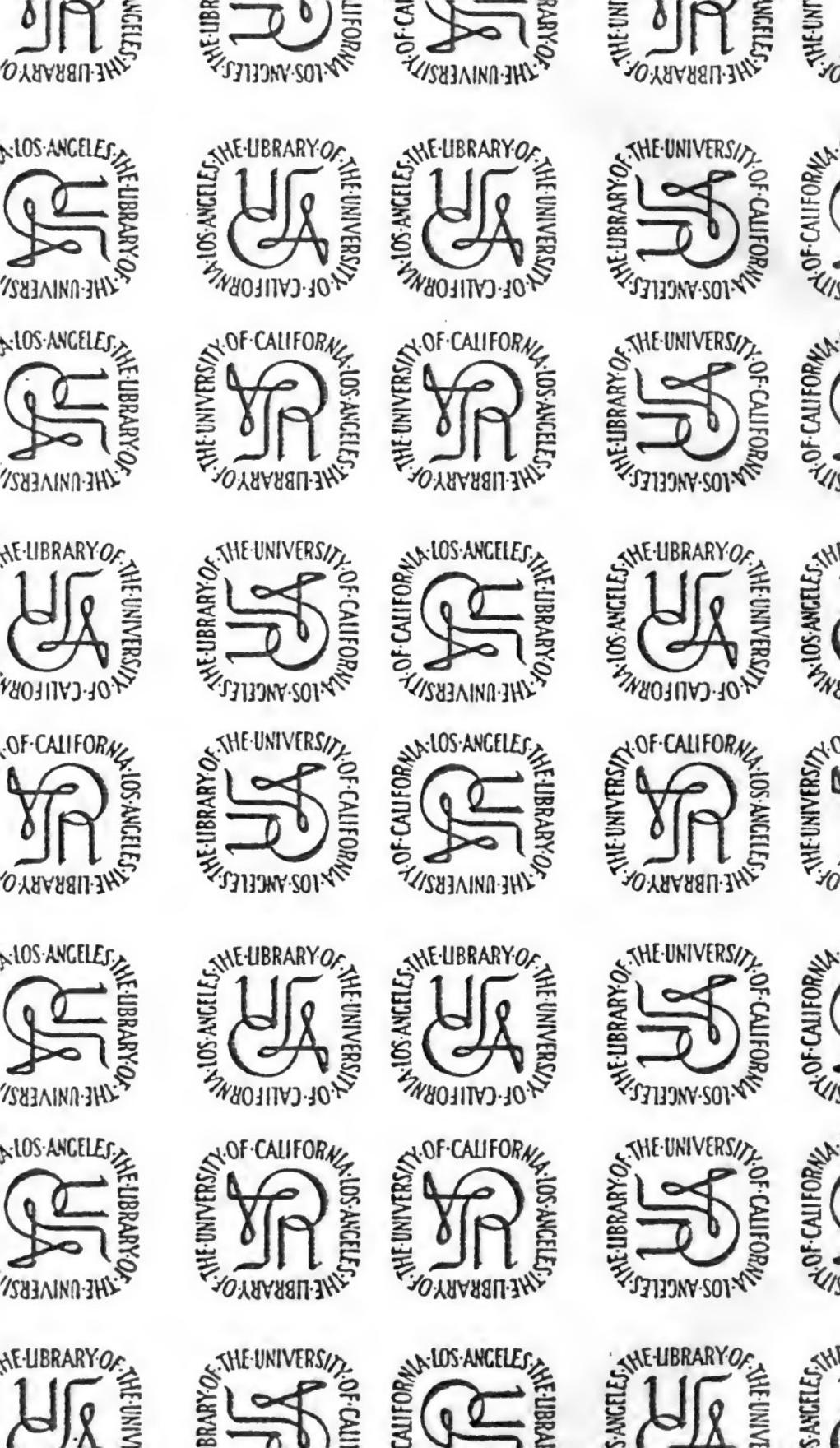
The Chief Justice announced his opinion to be that the oath hitherto taken by Senators at the organization of the Court of Impeachment was sufficient, and that no other oath was necessary.

On motion of Mr. Moore, the Court adjourned until 12 M., Monday, 30th January, 1871.









3 1158 01318 6852

JN SOUTHERN REGIONAL LIBRARY FACILITY



AA 000 019 123 9

